# 2015 KENTUCKY GENERAL ASSEMBLY

***EFFECTIVE DATE OF MOST NEW LEGISLATION IS JUNE 24, 2015***

****Unless noted as different in individual statutes***

***NOTE - CERTAIN BILLS ARE EMERGENCY LEGISLATION AND EFFECTIVE IMMEDIATELY UPON THE SIGNATURE OF THE GOVERNOR (SEE INDIVIDUAL STATUTES).***

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# SENATE

## EMERGENCY
## SENATE BILL 28 ILLEGAL GAMBLING DEVICES
## SIGNED INTO LAW AND EFFECTIVE AS OF MARCH 19, 2015

**Section 1. KRS 528.010 is amended to read as follows:**
The following definitions apply in this chapter unless the context otherwise requires:

* * * * *

**(4) "Gambling device" means:**
(a) Any so-called slot machine or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and which when operated may deliver, as a result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property;~~[ or]~~
***(b) Any mechanical or electronic device permanently located in a business establishment, including a private club, that is offered or made available to a person to play or participate in a simulated gambling program in return for direct or indirect consideration, including but not limited to consideration paid for Internet access or computer time, or a sweepstakes entry, which when operated may deliver as a result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or***
***(c)***~~[(b)]~~ Any other machine or any mechanical or other device, including but not limited to roulette wheels, gambling tables and similar devices, designed and manufactured primarily for use in connection with gambling and which when operated may deliver, as the result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property;
***(d)***~~[(c)]~~ But, the following shall not be considered gambling devices within this definition:
1. Devices dispensing or selling combination or French pools on licensed, regular racetracks during races on said tracks.
***2. Devices dispensing or selling combination or French Pools on historical races at licensed, regular racetracks as lawfully authorized by the Kentucky Horse Racing Commission.***
***3.***~~[2.]~~ Electro-mechanical pinball machines specially designed, constructed, set up, and kept to be played for amusement only. Any pinball machine shall be made to receive and react only to the deposit of coins during the course of a game. The ultimate and only award given directly or indirectly to any player for the attainment of a winning score or combination on any pinball machine shall be the right to play one (1) or more additional games immediately on the same device at no further cost. The maximum number of free games that can be won, registered, or accumulated at one (1) time in operation of any pinball machine shall not exceed thirty (30) free games. Any pinball machine shall be made to discharge accumulated free games only by reactivating the playing mechanism once for each game released. Any pinball machine shall be made and kept with no meter or system to preserve a record of free games played, awarded, or discharged. Nonetheless, a pinball

machine shall be a gambling device if a person gives or promises to give money, tokens, merchandise, premiums, or property of any kind for scores, combinations, or free games obtained in playing the pinball machine in which the person has an interest as owner, operator, keeper, or otherwise.

***4.***~~[3.]~~ Devices used in the conduct of charitable gaming.

* * * * *

***(9) "Simulated gambling program" means any method intended to be used by a person playing, participating, or interacting with an electronic device that may, through the application of an element of chance, either deliver money or property or an entitlement to receive money or property.***

***REMAINING RENUMBERED***

***Section 2. No provision of this Act shall be construed as a recognition or finding concerning whether the operation of wagering on historical horse races constitutes a pari-mutuel form of wagering or concerning the legality of wagering on historical horse races, the devices upon which wagering on historical horse races is conducted, or the gaming system.***

***Section 3. Whereas it is important to protect the citizens of Kentucky from illegal gambling activity, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.***

## SENATE BILL 33 CHARITABLE GAMING

**Section 1. KRS 238.505 is amended to read as follows:**

As used in this chapter, unless the context requires otherwise:

(5) "Charity game ticket" means a game of chance using a folded or banded paper ticket, or a paper card with perforated break-open tabs, ***or electronic pulltab device representations thereof,*** the face of which is covered or otherwise hidden from view to conceal a number, letter, symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners and shall include charity game tickets that utilize a seal card. "Charity game ticket" shall include pulltabs***, both paper and electronic representations thereof;***

* * * * *

(11) "Charitable gaming facility" means a person, including a licensed charitable organization, that owns or is a lessee of premises which are leased or otherwise made available to two (2) or more licensed charitable organizations***, other than itself,*** during a one (1) year period for the conduct of charitable gaming;

* * * * *

(24) "Chairperson" means the chief executive officer and any officer, member, or employee of a licensed charitable organization who will be involved in the management and supervision of charitable gaming as designated in the organization's charitable gaming license application under KRS 238.535***(13)***~~[(9)]~~(g);

(25) "Year" means calendar year, except as used in KRS ***238.505(11), 238.535(11),*** 238.545(4), 238.547(1), and 238.555(7), when "year" means the licensee's license year;~~[ and]~~

* * * * *

***(27) "Electronic pulltab device" means an electronic device used only for charitable gaming to facilitate the play of an electronic pulltab. An electronic pulltab device shall be a tablet or other personal computing device, other than a mobile phone or similar handheld device, as approved by the department. An electronic pulltab device may only operate on a closed network or intranet that is confined to the licensee's premises, and shall not be Internet accessible by patrons, but shall be connected to a central server system solely for the purposes of monitoring, reporting, accounting, and software maintenance. An electronic pulltab device shall not be designed and manufactured to resemble any electronic gaming device that utilizes a video display monitor, such as a video lottery terminal, video slot machine, video poker machine, or any similar video gaming device; and***

***(28) "Electronic video gaming device," as used in this chapter and the related administrative regulations, means any device that possesses a video display and computer mechanism for playing a game. Electronic video gaming device shall not mean any electronic representation of charitable gaming games identified, defined, and approved by statute or administrative regulation of the department.***

**Section 2. KRS 238.535 is amended to read as follows:**

(1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the department. A charitable organization qualifying under subsection (8) of this section but not exceeding the limitations provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:

(a) Bingo in which the gross receipts do not exceed a total of twenty-five thousand dollars ($25,000) per year;

(b) A raffle or raffles for which the gross receipts do not exceed twenty-five thousand dollars ($25,000) per year; and

(c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed twenty-five thousand dollars ($25,000) per year.

However, at no time shall a charitable organization's total limitations under this subsection exceed twenty-five thousand dollars ($25,000).

(2)***(a)*** Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the department in writing, on a simple form issued by the department, of its intent to engage in exempt charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter relating to the conduct of charitable gaming, except:

***1.***~~[([a])]~~ Payment of the fee imposed under the provisions of KRS 238.570; and

***2.***~~[([b])]~~ The quarterly reporting requirements imposed under the provisions of KRS 238.550(7), unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.

***(b)*** Before ***January 31 of the year immediately following the year of exemption***~~[ the last day of each year]~~, a charitable organization exempt from licensure under the provisions of subsection (1) of this section shall file ***a financial report*** with the department***, on a form issued by the***

***department, that contains the following information:***

***1.*** ~~[A financial report detailing ]~~The type of gaming activity in which it engaged during that year***;***~~[,]~~

***2.*** The total gross receipts derived from gaming***;***~~[,]~~

***3.*** The amount of charitable gaming expenses paid***;***~~[,]~~

***4.*** The amount of net receipts derived***;***~~[,]~~ and

***5.*** The disposition of those net receipts~~[. This report shall be filed on a form issued by the department]~~.

***(3) An exemption that has been granted to a charitable organization for the preceding calendar year shall be automatically renewed on January 1 of the following year.***

***(4) If upon receipt of the financial report the department determines that the information appearing on the financial report renders the charitable organization ineligible to possess an exemption, the department shall notify the charitable organization that its exemption is rescinded. The organization may request an appeal of this rescission pursuant to KRS 238.565.***

***(5) If the annual financial report is not received by January 31, the exemption is automatically rescinded unless an extension of no more than thirty (30) days is granted by the department. The organization may request an appeal of this rescission pursuant to KRS 238.565***~~[Upon receipt of the yearly financial report, the department shall notify the charitable organization submitting it that its exemption is renewed for the next year. If the department determines that information appearing on the financial report renders the charitable organization ineligible to possess an exemption, the department shall revoke the exemption. The organization may request an appeal of this revocation pursuant to KRS 238.565]~~.

*(6)* If an exemption is revoked because an organization has exceeded the limit imposed in subsection (1) of this section, the organization shall apply for a retroactive license in accordance with subsection ***(7)***~~[(3)]~~ of this section.

***(7)***~~[(3)]~~ If an organization exceeds the limit imposed by any subsection of this section it shall:

(a) Report the amount to the department; and

(b) Apply for a retroactive charitable gaming license.

* * * * *

***(14)***~~**[(10)]**~~ An organization or a group of individuals that does not meet the licensing requirements of subsection *(12)*~~[(8)]~~ of this section may hold a raffle if the gross receipts do not exceed one hundred fifty dollars ($150) and all proceeds from the raffle are distributed to a charitable organization. The organization or group of individuals may hold up to three (3) raffles each year, and shall be exempt from complying with the notification, application, and reporting requirements of subsections (2) and ***(13)*** ~~[(9)]~~ of this section.

***REMAINING RENUMBERED***

**Section 3. KRS 238.540 is amended to read as follows:**

(1) Except as provided in KRS 238.535***(12)***~~[(8)]~~(d), charitable gaming shall be conducted by a licensed charitable organization at the location, date, and time which shall be stated on the license. The licensee shall request a change in the date, time, or location of a charitable gaming event by mail, electronic mail, or facsimile transmission, and shall submit a lease and an original signature of an officer. The department shall process this request and issue or deny a license within ten (10) days.

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***(8)(a) Each organization's gaming supplies shall be maintained in a location separate from another organization's gaming supplies.***
***(b) This location shall also be locked and access shall be controlled.***
***(c) Unless otherwise directed by the department, an organization's supplies and equipment remain the property of the organization regardless of where they are stored and must be accessible to the organization at all reasonable times upon request.***

***REMAINING RENUMBERED***

**Section 4. KRS 238.545 is amended to read as follows:**

* * * * *

(2)***(a)*** No prize for an individual charity game ticket shall exceed five hundred ninety-nine dollars ($599) in value, not including the value of cumulative or carryover prizes awarded in seal card games.
***(b)*** Cumulative or carryover prizes in seal card games shall not exceed two thousand four hundred dollars ($2,400).
***(c)*** Information concerning rules of the particular game and prizes that are to be awarded in excess of fifty dollars ($50) in each separate package or series of packages with the same serial number and all rules governing the handling of cumulative or carryover prizes in seal card games shall be posted prominently in an area where charity game tickets are sold. A legible poster that lists prizes to be awarded, and on which prizes actually awarded are posted at the completion of the sale of each separate package shall satisfy this requirement.
***(d)*** Any unclaimed money or prize shall return to the charitable organization.
***(e)*** No ***paper*** charity game ticket shall be sold in the Commonwealth of Kentucky that does not conform to the standards for opacity, randomization, minimum information, winner protection, color, and cutting established by the department.
***(f) No electronic pulltab device representation of a charity game ticket shall be sold in the Commonwealth of Kentucky that does not conform to the construction standards set forth in an administrative regulation promulgated by the department. Electronic pulltab devices shall only be used for charitable gaming.***
***(g)*** No person under the age of eighteen (18) shall be permitted to purchase, or open in any manner, a charity game ticket.
(3)***(a)*** Tickets for a raffle shall be sold separately, and each ticket shall constitute a separate and equal chance to win.
***(b)*** All raffle tickets shall be sold for the price stated on the ticket, and no person shall be required to purchase more than one (1) ticket or to pay for anything other than a ticket to enter a raffle.
***(c)*** Raffle tickets shall have a unique identifier for the ticket holder.
***(d)*** Winners shall be drawn at random at a date, time, and place announced in advance or printed on the ticket.
***(e)*** All prizes for a raffle shall be identified in advance of the drawing and all prizes identified shall be awarded.

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# SENATE BILL 39 SCHOOL SAFETY

**Section 1. KRS 158.162 is amended to read as follows:**

(1) As used in this section:

(a) "Emergency management response plan" or "emergency plan" means a written document to prevent, mitigate, prepare for, respond to, and recover from emergencies; and

(b) "First responders" means local fire, police, and emergency medical personnel.

(2) (a) Each local board of education shall require the school council or, if none exists, the principal in each public school building in its jurisdiction to adopt an emergency plan to include procedures to be followed in case of fire, severe weather, or earthquake, or if a building lockdown as defined in KRS 158.164 is required.

(b) Following adoption, the emergency plan, along with a diagram of the facility, shall be provided to appropriate first responders.

(c) The emergency plan shall be reviewed following the end of each school year by the school council, the principal, and first responders and shall be revised as needed.

(d) The principal shall discuss the emergency plan with all school staff prior to the first instructional day of each school year and shall document the time and date of any discussion.

(e) The emergency plan and diagram of the facility shall be excluded from the application of KRS 61.870 to 61.884.

(3) Each local board of education shall require the school council or, if none exists, the principal in each public school building to:

(a) Establish primary and secondary evacuation routes for all rooms located within the school and shall post the routes in each room by any doorway used for evacuation;

(b) Identify ***the best available*** severe weather safe zones***, in consultation with local and state safety officials and informed by guiding principles set forth by the National Weather Service and the Federal Emergency Management Agency,***[~~to be reviewed by the local fire marshal or fire chief~~] and post the location of safe zones in each room of the school;

(c) Develop practices for students to follow during an earthquake; and

(d) Develop and adhere to practices to control the access to each school building. Practices may include but not be limited to:

1. Controlling outside access to exterior doors during the school day;
2. Controlling the front entrance of the school electronically or with a greeter;
3. Controlling access to individual classrooms. If a classroom is equipped with hardware that allows the door to be locked from the outside but opened from the inside, the door should remain locked during instructional time;
4. Requiring all visitors to report to the front office of the building, provide valid identification, and state the purpose of the visit; and
5. Providing a visitor's badge to be visibly displayed on a visitor's outer garment.

(4) Each local board of education shall require the principal in each public school building in its jurisdiction to conduct, at a minimum, emergency response drills to include one (1) severe weather drill, one (1) earthquake drill, and one (1) lockdown drill within the first thirty (30) instructional days of each school year and again during the month of January. Required fire drills shall be conducted according to administrative regulations promulgated by the Department of Housing, Buildings and Construction. Whenever possible, first responders shall be invited to observe emergency response drills.

(5) No later than November 1 of each school year, a local district superintendent shall send verification to the Kentucky Department of Education that all schools within the district are in compliance with the requirements of this section.

## SENATE BILL 51 MENTAL HEALTH

**Section 1. KRS 202A.400 is amended to read as follows:**

(1) No monetary liability and no cause of action shall arise against any mental health professional for failing to predict, warn of or take precautions to provide protection from a patient's violent behavior, unless the patient has communicated to the mental health professional an actual threat of physical violence against a clearly identified or reasonably identifiable victim, or unless the patient has communicated to the mental health professional an actual threat of some specific violent act.

(2) The duty to warn of or to take reasonable precautions to provide protection from violent behavior arises only under the limited circumstances specified in subsection (1) of this section. The duty to warn a clearly or reasonably identifiable victim shall be discharged by the mental health professional if reasonable efforts are made to communicate the threat to the victim, and to notify the police department closest to the patient's and the victim's residence of the threat of violence. When the patient has communicated to the mental health professional an actual threat of some specific violent act and no particular victim is identifiable, the duty to warn has been discharged if reasonable efforts are made to communicate the threat to law enforcement authorities. The duty to take reasonable precaution to provide protection from violent behavior shall be satisfied if reasonable efforts are made to seek civil commitment of the patient under this chapter.

(3) No monetary liability and no cause of action shall arise against any mental health professional for confidences disclosed to third parties in an effort to discharge a duty arising under subsection (1) of this section according to the provisions of subsection (2) of this section.

(4) For purposes of this section,~~:~~[,]

***(a)*** "Mental health professional" means:

***1.***~~[(a)]~~ A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in conducting mental health services;

***2.***~~[(b)]~~ A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States engaged in conducting mental health services;

***3.***~~[(c)]~~ A psychologist, a psychological practitioner, a certified psychologist, or a psychological associate, licensed under the provisions of KRS Chapter 319;

***4.***~~[(d)]~~ A registered nurse licensed under the provisions of KRS Chapter 314 engaged in providing mental health services;

***5.***~~[(e)]~~ A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 engaged in providing mental health services;

***6.***~~[(f)]~~ A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 engaged in providing mental health services;

***7.***~~[(g)]~~ A professional counselor credentialed under the provisions of KRS Chapter 335.500 to 335.599 engaged in providing mental health services;

***8.***~~[(h)]~~ An art therapist certified under KRS 309.130 engaged in providing mental health services; or

***9.***~~[(i)~~ A pastoral counselor licensed under the provisions of KRS 335.600 to 335.699 engaged in

providing mental health services***; and***

***(b) "Patient" has the same meaning as in KRS 202A.011, except that it also includes a person currently under the outpatient care or treatment of a mental health professional***.

**Section 2. KRS 202A.028 is amended to read as follows:**

(1) Following an examination by a qualified mental health professional and a certification by that professional that the person meets the criteria for involuntary hospitalization, a judge may order the person hospitalized for a period not to exceed seventy-two (72) hours, excluding weekends and holidays. For the purposes of this section, the qualified mental health professional shall be:

*(a)* A staff member of a regional community program for mental health or individuals with an intellectual disability;

***(b) An individual qualified and licensed to perform the examination through the use of telehealth services; or***

***(c)*** ~~[, unless the person to be examined is hospitalized and under the care of a licensed psychiatrist, in which case the qualified mental health professional shall be the psychiatrist if ]~~The psychiatrist ~~[is ]~~ordered, subject to the court's discretion, to perform the required examination.

(2) Any person who has been admitted to a hospital under subsection (1) of this section shall be released from the hospital within seventy-two (72) hours, excluding weekends and holidays, unless further held under the applicable provisions of this chapter.

(3) Any person admitted to a hospital under subsection (1) of this section or transferred to a hospital while ordered hospitalized under subsection (1) of this section shall be transported from the person's home county by the sheriff of that county or other peace officer as ordered by the court. The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the person to the hospital. The transportation costs of the sheriff, other peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation promulgated by the cabinet, pursuant to KRS Chapter 13A.

(4) Any person released from the hospital under subsection (2) of this section shall be transported to the person's county of discharge by a sheriff or other peace officer, by an ambulance service designated by the cabinet, or by other appropriate means of transportation which is consistent with the treatment plan of that person. The transportation cost of transporting the patient to the patient's county of discharge when performed by a peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation issued by the cabinet pursuant to KRS Chapter 13A.

(5) No person who has been held under subsection (1) of this section shall be held in jail pending evaluation and transportation to the hospital.

## SENATE BILL 62 PUBLIC SERVICE RETIREMENT

**Section 1. KRS 61.637 is amended to read as follows:**

* * * * *

(17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this section, the following shall apply to retired members who are reemployed by an agency participating in one (1) of the systems administered by Kentucky Retirement Systems on or after September 1, 2008:

(a) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, or has filed the forms required to receive a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or is employed in a position that is not considered regular full-time with an agency participating in one (1) of the systems administered by Kentucky Retirement Systems within three (3) months following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and
2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;

(b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems after a three (3) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. ***If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided.*** If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer;
2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;
3. Except as provided by KRS 70.291 to 70.293, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and
4. Except as provided by KRS 70.291 to 70.293, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium;

(c) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, and is employed in a regular full-time position required to participate in the State Police Retirement

System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided; and

(d) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. ***If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided.*** If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer;

2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;

3. Except as provided by KRS 70.291 to 70.293, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and

4. Except as provided by KRS 70.291 to 70.293, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium.

**Section 2. KRS 18A.110 is amended to read as follows:**

* * * * *

***(8) For any individual hired or elected to office before January 1, 2015, and paid through the Kentucky Human Resources Information System, the Personnel Cabinet shall not require payroll payments to be made by direct deposit or require the individual to use a Web-based program to access his or her salary statement.***

# SENATE BILL 67 CONCEALED CARRY PERMITS

**Section 1. KRS 237.110 is amended to read as follows:**

* * * * *

(4) The Department of Kentucky State Police shall issue an original or renewal license if the applicant:

(a) Is not prohibited from the purchase, receipt, or possession of firearms, ammunition, or both pursuant to 18 U.S.C. 922(g), 18 U.S.C. 922(n), or applicable federal or state law;

(b)1. Is a citizen of the United States who is a resident of this Commonwealth;

2. Is a citizen of the United States who is a member of the Armed Forces of the United States who is on active duty, who is at the time of application assigned to a military posting in Kentucky;

3. Is lawfully admitted to the United States by the United States government or an agency thereof, is permitted by federal law to purchase a firearm, and is a resident of this Commonwealth; or

4. Is lawfully admitted to the United States by the United States government or an agency thereof, is permitted by federal law to purchase a firearm, is, at the time of the application, assigned to a military posting in Kentucky, and has been assigned to a posting in the Commonwealth;

(c) Is twenty-one (21) years of age or older;

(d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances, within a three (3) year period immediately preceding the date on which the application is submitted;

(e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding the date on which the application is submitted, or having been committed as an alcoholic pursuant to KRS Chapter 222 or similar laws of another state within the three (3) year period immediately preceding the date on which the application is submitted;

(f) Does not owe a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, if the Department of Kentucky State Police has been notified of the arrearage by the Cabinet for Health and Family Services;

(g) Has complied with any subpoena or warrant relating to child support or paternity proceedings. If the Department of Kentucky State Police has not been notified by the Cabinet for Health and Family Services that the applicant has failed to meet this requirement, the Department of Kentucky State Police shall assume that paternity and child support proceedings are not an issue;

(h) Has not been convicted of a violation of KRS 508.030 or 508.080 within the three (3) years immediately preceding the date on which the application is submitted. The commissioner of the Department of Kentucky State Police may waive this requirement upon good cause shown and a determination that the applicant is not a danger and that a waiver would not violate federal law;~~[ and]~~

(i) Demonstrates competence with a firearm by successful completion of ***a firearms safety or training course that is conducted by a firearms instructor who is certified by a national organization that certifies firearms instructors and includes the use of written tests, in person instruction, and a component of live-fire training or*** a firearms safety course offered or approved by the Department of Criminal Justice Training. The firearms safety course ***offered or approved by the Department of Criminal Justice Training*** shall:

1. Be not more than eight (8) hours in length;

2. Include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, and handgun marksmanship principles;
3. Include actual range firing of a handgun in a safe manner, and the firing of not more than twenty (20) rounds at a full-size silhouette target, during which firing, not less than eleven (11) rounds must hit the silhouette portion of the target; and
4. Include information on and a copy of laws relating to possession and carrying of firearms, as set forth in KRS Chapters 237 and 527, and the laws relating to the use of force, as set forth in KRS Chapter 503***; and***
***(j) Demonstrates knowledge of the law regarding the justifiable use of force by including with the application a copy of the concealed carry deadly weapons legal handout made available by the Department of Criminal Justice Training and a signed statement that indicates that applicant has read and understands the handout***.
(5)(a) A legible photocopy or electronic copy of ***a***~~[the]~~ certificate of completion issued by ***a firearms instructor certified by a national organization or*** the Department of Criminal Justice Training shall constitute evidence of qualification under subsection (4)(i) of this section.

## SENATE BILL 78 TOWING AND STORAGE OF VEHICLES

**Section 1. KRS 376.268 is amended to read as follows:**
As used in KRS 376.270 and 376.275**:**~~[,]~~
***(1) "Contents" means personal items located in a motor vehicle, but does not include manufacturer-installed or after-market accessories permanently affixed to the motor vehicle;***
*(2)* "Motor vehicle" ***includes***~~[shall include]~~ vessels used or designed for navigation of or operation on waterways, rivers, lakes, and streams, as well as those used or designed for operation on the public highways**; and**
***(3) "Reasonable charges" means those charges which are usual and customary, not discriminatory, and which are typical charges for services provided by similar towing or storage companies with similar equipment and facilities operating in the region or comparable-size city or county from which the vehicle was towed or stored.***

**Section 4. KRS 376.275 is amended to read as follows:**
(1) When a motor vehicle has been involuntarily towed or transported pursuant to order of police, other public authority, or private person or business for any reason or when the vehicle has been stolen or misappropriated and its removal from the public ways has been ordered by police, other public authority, or by private person or business, or in any other situation where a motor vehicle has been involuntarily towed or transported by order of police, other authority, or by private person or business, the police, other authority, private person or business shall attempt to ascertain from the Transportation Cabinet the identity of the registered owner of the motor vehicle or lessor of a motor carrier as defined in KRS Chapter 281 and within ten (10) business days of the removal shall, by certified mail, attempt to notify the registered owner at the address of record of the make, model, license number and vehicle identification number of the vehicle and of the location of the vehicle, and the requirements for securing the release of said motor vehicle.
(2) If a vehicle described in subsection (1) of this section is placed in a garage or other storage facility, the owner of the facility shall attempt to provide the notice provided in subsection (1) of this section, by certified mail, to the registered owner at the address of record of the motor vehicle or lessor of a motor carrier as defined in KRS Chapter 281 within ten (10) business days of recovery of, or taking possession of the motor vehicle. The notice shall contain the information as to the make,

model, license number and vehicle identification number of the vehicle, the location of the vehicle and the amount of reasonable charges ***for towing, recovery, storage, transporting, and other applicable charges*** due on the vehicle. When the owner of the facility fails to provide notice as provided herein, the motor vehicle storage facility shall forfeit all storage fees accrued after ten (10) business days from the date of tow. This subsection shall not apply to a garage or storage facility owned or operated by a government entity.

(3)***(a)***Any person engaged in the business of storing or towing motor vehicles, who has substantially complied with the aforementioned requirements of this section, shall have a lien on the motor vehicle ***and its contents, except as set forth in subsection (4) of this section***, for the reasonable or agreed charges for~~[ storing or]~~ towing***, recovery, storage, transporting, and other applicable charges due on*** the vehicle, as long as it remains in his possession.

***(b) Prior to payment of fees and release of a vehicle, a towing or storage company shall not refuse the right of physical inspection of the towed vehicle by the owner or an insurance company representative. Release of the vehicle shall occur to the owner or insurance company representative upon payment and consent of the release from the owner or the owner's authorized representative. Each additional service shall be set forth individually as a single line item in the bill with an explanation and the exact charge for the service.***

***(c)*** If after a period of forty-five (45) days***,*** the reasonable or agreed charges for~~[ storing or]~~ towing***, recovery, storage, transporting, and other applicable charges due on*** a motor vehicle ***and its contents*** have not been paid, the motor vehicle ***and its contents, except as set forth in subsection (4) of this section,*** may be sold to pay the charges after the owner has been notified by certified mail ten (10) days prior to the time and place of the sale. If the proceeds of the sale of any vehicle pursuant to this section are insufficient to satisfy accrued charges for towing, transporting, and storage, the sale and collection of proceeds shall not constitute a waiver or release of responsibility for payment of unpaid towing, transporting, and storage charges by the owner or responsible casualty insurer of the vehicle. ***A***~~[This]~~ lien ***on a vehicle under this subsection*** shall be subject to prior recorded liens.

***(d) A lien holder having a prior recorded lien listed on the title issued by the Commonwealth of Kentucky shall be notified by certified mail within the first fifteen (15) days of impoundment. The letter shall include the make, model, license number, vehicle identification number, owner's name and last known address, and tentative date of sale for the vehicle. If the above-referenced certified letter is not sent within the fifteen (15) days by the towing and storage company, then only fifteen (15) days of storage may be charged. The lien holder has the right to take possession of the motor vehicle after showing proof of lien still enforced, and paying the reasonable or agreed towing and storage charges on the motor vehicle. Nothing in this section shall allow the transfer of a vehicle subject to a lien, except as provided in KRS 186A.190.***

**(4)** ***Subsection (3) of this section shall not apply to the following contents of a motor vehicle, which shall be released to the vehicle owner or the owner's designated agent upon request, if the request is made within forty-five (45) days of the date the vehicle was towed:***

***(a) Prescription medication in its proper container;***

***(b) Personal medical supplies and equipment or records;***

***(c) Educational materials, including but not limited to calculators, books, papers, and school supplies;***

***(d) Documents, files, electronic devices, or equipment which may be able to store personal information or information relating to a person's employment or business;***

***(e) Firearms and ammunition. Notwithstanding the provisions of subsection (5) of this section, firearms and ammunition which are not claimed by the owner of the vehicle within***

***forty-five (45) days of the date the vehicle was towed shall be transferred to the Department of State Police for disposition as provided by KRS 16.220;***
***(f) Cargo in the possession of persons engaged in transportation in interstate commerce as registered under KRS 186.020;***
***(g) Cargo in the possession of an integrated intermodal small package carrier as defined by KRS 281.605(12);***
***(h) Child restraint systems or child booster seats; and***
***(i) Checks, checkbooks, debit or credit cards, money orders, stocks, or bonds.***
***(5) Except as provided for in subsection (4)(e) of this section, any contents exempted under subsection (4) of this section that are not claimed by the owner of the vehicle within forty-five (45) days of the date the vehicle was towed may be sold or otherwise legally disposed of by the storage or towing company.***
***(6) The storage or towing company shall not be responsible for contents in a vehicle's trunk or other locked compartment to which the storage or towing company is without access, unless the towing company intentionally opens the area without the owner's consent.***
***(7)*** The provisions of this section shall not apply when a local government causes a vehicle to be towed pursuant to KRS 82.605 to 82.640 or if state government causes a vehicle to be towed.

## SENATE BILL 89 EMPLOYEE FIREARM SALES

**Section 1. KRS 45A.600 is amended to read as follows:**
(1)***(a) When an agency of Kentucky state government or a public university safety and security department organized pursuant to KRS 164.950 transitions from the use of one (1) firearm owned by that agency to another, the agency may sell the firearm that is being replaced directly to an employee of the agency if:***
***1. The firearm was issued to the employee in the course of employment; and***
***2. The employee is otherwise authorized by law to own or possess the firearm.***
***(b)1. The agency shall notify employees of the intended replacement of firearms and that employees may purchase firearms pursuant to paragraph (a) of this subsection.***
***2. The employee desiring to purchase the firearm issued to the employee shall notify the head of the issuing agency of his or her intention not less than ten (10) days after receiving notice of the intended replacement.***
***(2)(a)*** Upon~~[ his]~~ retirement from state employment, a state employee to whom a ***firearm***~~[handgun]~~ has been issued during the course of~~[ his]~~ employment may purchase the ***firearm***~~[handgun]~~ which was issued~~[ to him]~~ during the course of~~[ his]~~ employment ***if the employee is otherwise authorized to privately own or possess the firearm***.
~~[(2) The purchase price shall be the fair market value determined by the Finance and Administration Cabinet, Division of Personal Property. The proceeds from the sale of the handgun shall be deposited to the credit of an agency account for the issuing agency and shall be used for the purpose of purchasing replacement firearms.]~~
***(b)***~~[(3)]~~ The employee desiring to purchase the ***firearm***~~[handgun]~~ issued to ***the employee***~~[him]~~ shall notify the head of the issuing agency of such intention not less than thirty (30) days prior to the scheduled date of~~[ his]~~ retirement.

***(3) The purchase price shall be the fair market value determined by the Finance and Administration Cabinet, Division of Personal Property. The proceeds from the sale of the firearm shall be deposited to the credit of an agency account for the issuing agency and shall be used for the purpose of purchasing replacement firearms.***

***(4) Any firearms that are not purchased by employees or retirees shall be disposed of pursuant to KRS 45A.047.***

*(5)* ~~[(4)]~~ This statute shall supersede other state laws with regard to the disposition of state property for the purpose stated in this section and for no other purpose.

**Section 5. KRS 45A.047 is amended to read as follows:**

(1) When an agency of Kentucky state government or a public university safety and security department organized pursuant to KRS 164.950 disposes of firearms or ammunition owned by that agency, the disposition shall be by:

(a) Public auction to persons who are eligible under federal law to purchase the type of firearm or ammunition;

(b) Trade to the federally licensed firearms dealer providing new firearms or ammunition to the agency;

(c) Transfer to another government agency or government-operated museum in Kentucky for official use or display; or

(d) Sale to a ***current or*** retiring employee as authorized by law.

(2) If the firearms or ammunition are sold, the proceeds of the sale shall be utilized solely for the purchase of body armor for officers meeting or exceeding National Institute of Justice standards, firearms, ammunition, or range facilities, or a combination thereof, by the agency of government. The provisions of this subsection shall not apply to the Department of Fish and Wildlife.

(3) Body armor purchased for a service animal shall be purchased only for an animal owned by the law enforcement agency specified in subsection (1) of this section.

**Section 3. KRS 65.041 is amended to read as follows:**

KRS 45A.343 and 45A.425 to the contrary notwithstanding:

(1) When a police department, sheriff's department, or other agency of city, county, urban-county, or charter county government or other unit of local government disposes of firearms or ammunition owned by that unit of local government, the disposition shall be by:

(a) Public auction to persons eligible under federal law to purchase the type of firearm or ammunition being offered for sale;

(b) Trade to the federally licensed firearms dealer providing new firearms or ammunition to the agency;

(c) Transfer to another government agency or government-operated museum in Kentucky for official use or display; or

(d) Sale to the ***employee*** ~~[officer]~~ to whom the firearm was issued, ~~[ upon his or her retirement,]~~ if all of the following provisions are satisfied:

1. The firearm was issued to the ***employee*** ~~[officer]~~ as his or her ~~[ primary]~~ service weapon;

2. ***The employee is retiring or an employee's service weapon is being replaced;***

***3.*** The ***employee*** ~~[officer]~~ is otherwise authorized by law to own or possess the firearm; and

***4.*** ~~[3.]~~ The sale price of the firearm is the fair market value of the firearm, not to exceed the actual cost of the firearm to the unit of government; and

(2) If the firearms or ammunition are sold, the proceeds of the sale shall be utilized solely for the purchase of body armor meeting or exceeding National Institute of Justice standards, firearms, ammunition, or range facilities, or a combination thereof, by the agency of government.

## SENATE BILL 102 CRIMINAL HOMICIDE

**Section 1. KRS 507.010 is amended to read as follows:**

***As used in this chapter:***

***(1) "Abuse" has the same meaning as in KRS 508.090;***

***(2) "Criminal homicide" means that*** a person is guilty ***of causing***~~[of criminal homicide when he causes]~~ the death of another human being under circumstances which constitute murder, manslaughter in the first degree, manslaughter in the second degree, or reckless homicide***; and***

***(3) "Physically helpless" and "mentally helpless" have the same meaning as in KRS 508.090.***

**Section 2. KRS 507.030 is amended to read as follows:**

(1) A person is guilty of manslaughter in the first degree when:

(a) With intent to cause serious physical injury to another person, he causes the death of such person or of a third person;~~[ or]~~

(b) With intent to cause the death of another person, he causes the death of such person or of a third person under circumstances which do not constitute murder because he acts under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of KRS 507.020***; or***

***(c) Through circumstances not otherwise constituting the offense of murder, he or she intentionally abuses another person or knowingly permits another person of whom he or she has actual custody to be abused and thereby causes death to a person twelve (12) years of age or less, or who is physically helpless or mentally helpless***.

(2) Manslaughter in the first degree is a Class B felony.

***Section 3. This Act may be cited as Conner's Law.***

## SENATE BILL 133 IGNITION INTERLOCK DEVICES

**Section 1. KRS 189A.005 is amended to read as follows:**

As used in this chapter, unless the context requires otherwise:

(1) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath;

(2) "Ignition interlock device" means a device***, certified by the Transportation Cabinet for use in this Commonwealth under KRS 189A.500(1),*** that connects a motor vehicle ignition system or motorcycle ignition system to a breath alcohol analyzer and prevents a motor vehicle ignition or motorcycle ignition from starting, and from continuing to operate, if a driver's breath alcohol concentration exceeds 0.02, as measured by the device;

**(3)** ***"Ignition Interlock Certification of Installation" means a certificate providing that the installed ignition interlock device is certified for use in the Commonwealth under KRS 189A.500(1);***

***(4) "Ignition Interlock Device Provider" means any person or company engaged in the business of manufacturing, selling, leasing, servicing, or monitoring ignition interlock devices within the Commonwealth;***

***(5) "Ignition interlock license" means a motor vehicle or motorcycle operator's license issued or granted by the laws of the Commonwealth of Kentucky that, with limited exceptions, permits a person to drive only motor vehicles or motorcycles equipped with a functioning ignition interlock device;***

*(6)* "License" means any driver's or operator's license or any other license or permit to operate a motor vehicle issued under or granted by the laws of this state including:

(a) Any temporary license or instruction permit;

(b) The privilege of any person to obtain a valid license or instruction permit, or to drive a motor vehicle whether or not the person holds a valid license; and

(c) Any nonresident's operating privilege as defined in KRS Chapter 186 or 189;

***REMAINING RENUMBERED***

**Section 2. KRS 189A.070 is amended to read as follows:**

(1) Unless the person is under eighteen (18) years of age, in addition to the penalties specified in KRS 189A.010, a person convicted of violation of KRS 189A.010(1)(a), (b), (c), (d), or (e) shall have his ***or her*** license to operate a motor vehicle or motorcycle revoked by the court as follows:

(a) For the first offense within a five (5) year period, for a period of not less than thirty (30) days nor more than one hundred twenty (120) days;

(b) For the second offense within a five (5) year period, for a period of not less than twelve (12) months nor more than eighteen (18) months;

(c) For a third offense within a five (5) year period, for a period of not less than twenty-four (24) months nor more than thirty-six (36) months; and

(d) For a fourth or subsequent offense within a five (5) year period, sixty (60) months.

(e) For purposes of this section, "offense" shall have the same meaning as described in KRS 189A.010(5)(e).

(2) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(3) In addition to the period of license revocation set forth in subsection (1) or (7) of this section, no person shall be eligible for reinstatement of his ***or her full*** privilege to operate a motor vehicle until he has completed the alcohol or substance abuse education or treatment program ordered pursuant to KRS 189A.040.

* * * * *

**(7)** ***After a minimum of twelve (12) months from the effective date of the revocation,*** a person whose license has been revoked pursuant to subsection (1)(b), (c), or (d) of this section may move the court to reduce the~~[ applicable minimum]~~ period of revocation ***on a day-for-day basis for each day the person held a valid ignition interlock license under KRS 189A.420*** ~~[by one-half (1/2)]~~, but in no case ***shall the reduction reduce the period of ignition interlock use to*** less than twelve (12) months. The court may, upon a written finding in the record for good cause shown, order such a period to be reduced ***to not***~~[ by one-half (1/2), but in no case]~~ less than twelve (12) months, if~~[ the following conditions are satisfied]~~:

(a) The person ***maintained a valid ignition interlock license and did*** ~~[shall]~~ not operate a motor vehicle or motorcycle without ***a functioning*** ~~[an]~~ ignition interlock device as provided for in ***KRS 189A.420*** ~~[ KRS 189A.340(2)]~~;

(b) The person ***did*** ~~[shall]~~ not operate a motor vehicle or motorcycle ***in violation of any restrictions*** ~~[at any other time and for any other purposes than those]~~ specified by the court; and

(c) The ***functioning*** ignition interlock device ***was*** ~~[shall be]~~ installed on the motor vehicle or motorcycle for a period of time not less than ***twelve (12) months*** ~~[the applicable minimum period of revocation provided for]~~ under subsection (1)(b), (c), or (d) of this section ~~[ nor for more than the respective maximum period of revocation provided for under subsection (1)(b), (c), or (d) of this section]~~.

* * * * *

**Section 3. KRS 189A.085 is amended to read as follows:**

(1) Unless, ***at the final sentencing hearing of a person who has been convicted of a second or subsequent offense under KRS 189A.010, the person provides proof that the requirements of KRS 189A.420 have been met for issuance of an ignition interlock license*** ~~[ the court orders installation of an ignition interlock device under KRS 189A.340, upon the conviction of a second or subsequent offense of KRS 189A.010]~~, ***the*** ~~[ a]~~ person shall have the license plate or plates on all of the motor vehicles owned by him or her, either solely or jointly, impounded by the court of competent jurisdiction in accordance with the following procedures:

(a) At the final sentencing hearing, the person ~~[ who has been convicted of a second or subsequent offense of KRS 189A.010(1)(a), (b), (c), (d), or (e)]~~ shall physically surrender any and all license plate or plates currently in force on any motor vehicle owned either individually or jointly by him or her to the court. The order of the court suspending the license plate or plates shall not exceed the time for the suspension of the motor vehicle operator's license of the second or subsequent offender as specified in KRS 189A.070.

(b) The clerk of the court shall retain any surrendered plate or plates and transmit all surrendered plate or plates to the Transportation Cabinet in the manner set forth by the Transportation Cabinet in administrative regulations promulgated by the Transportation Cabinet.

(2) Upon application, the court may grant hardship exceptions to family members or other individuals affected by the surrender of any license plate or plates of any vehicle owned by the second or subsequent offender. Hardship exceptions may be granted by the court to the second or subsequent offender's family members or other affected individuals only if the family members or other affected individuals prove to the court's satisfaction that their inability to utilize the surrendered vehicles would pose an undue hardship upon the family members or affected other individuals. Upon the court's granting of hardship exceptions, the clerk or the Transportation Cabinet as appropriate, shall return to the family members or other affected individuals the license plate or plates of the vehicles of the second or subsequent offender for their utilization. The second or subsequent offender shall not be permitted to operate a vehicle for which the license plate has been suspended or for which a hardship exception has been granted under any circumstances.

(3) If the license plate of a jointly owned vehicle is impounded, this vehicle may be transferred to a joint owner of the vehicle who was not the violator.

(4) If the license plate of a motor vehicle is impounded, the vehicle may be transferred.

**Section 4. KRS 189A.090 is amended to read as follows:**

(1) No person shall operate or be in physical control of a motor vehicle while his ***or her*** license is revoked or suspended ***under KRS Chapter 189A, or upon the conclusion of a license revocation period pursuant to KRS 189A.340*** ~~[ under KRS 189A.010(6), 189A.070, 189A.107, 189A.200, or 189A.220]~~ ***unless the person has his or her valid ignition interlock license in the person's possession and the*** ~~[, or operate or be in physical control of a]~~ motor vehicle ***or motorcycle is equipped with*** ~~[ without]~~ a functioning ignition interlock device ***as required by KRS 189A.420*** ~~[in violation of KRS 189A.345(1)]~~.

(2) In addition to any other penalty imposed by the court, any person who violates subsection (1) of this section shall:

(a) For a first offense within a five (5) year period, be guilty of a Class B misdemeanor and have his license revoked by the court for six (6) months, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e), in which event he shall be guilty of a Class A misdemeanor and have his license revoked by the court for a period of one (1) year;

(b) For a second offense within a five (5) year period, be guilty of a Class A misdemeanor and have his license revoked by the court for one (1) year, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e), in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of two (2) years;

(c) For a third or subsequent offense within a five (5) year period, be guilty of a Class D felony and have his license revoked by the court for two (2) years, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e), in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of five (5) years.

***(d) At the sole discretion of the court, in the interest of public safety and upon a written finding in the record for good cause shown, the court may order that, following any period of incarceration required for the conviction of an offense under paragraph (a), (b), or (c) of this subsection, the eligible person is authorized to apply for and the cabinet shall issue to the person an ignition interlock license for the remainder of the original period of suspension or revocation and for the entire period of the new revocation if the person is and remains otherwise eligible for such license.***

(3) The five (5) year period under this section shall be measured in the same manner as in KRS 189A.070.

(4) ~~[After one (1) year of the period of revocation provided for in subsection (2)(b) or (c) of this section has elapsed, a person whose license has been revoked pursuant to either of those subsections may move the court to have an ignition interlock device installed for the remaining portion of the period of revocation. The court may, upon a written finding in the record for good cause shown, order an ignition interlock device installed if the following conditions are satisfied:~~

~~(a) The person shall not operate a motor vehicle or motorcycle without an ignition interlock device as provided for in KRS 189A.340(2);~~

~~(b) The person shall not operate a motor vehicle or motorcycle at any other time and for any other purposes than those specified by the court; and~~

~~(c) The ignition interlock device shall be installed on the motor vehicle or motorcycle for a period of time not less than the period of revocation required for the person under subsection (2)(b) or (c) of this section.~~

~~(5) ]~~Upon a finding of a violation of any of the ***requirements of an ignition interlock license*** ~~[conditions specified in subsection (4) of this section or of the order permitting the installation of an ignition interlock device in lieu of the remaining period of revocation that is issued pursuant thereto]~~, the court shall dissolve such an order and the person shall receive no credit toward the remaining period of revocation required under subsection (2)(b) or (c) of this section.

**Section 5. KRS 189A.105 is amended to read as follows:**

(1) A person's refusal to submit to tests under KRS 189A.103 shall result in revocation of his driving privilege as provided in this chapter.

(2) (a) At the time a breath, blood, or urine test is requested, the person shall be informed:

1. That, if the person refuses to submit to such tests, the fact of this refusal may be used against him in court as evidence of violating KRS 189A.010 and will result in revocation of his driver's license, and if the person refuses to submit to the tests and is subsequently convicted of violating KRS 189A.010(1) then he will be subject to a mandatory minimum jail sentence which is twice as long as the mandatory minimum jail sentence imposed if he submits to the tests, and that if the person refuses to submit to the tests ***his or her license will be suspended by the court at the time of arraignment, and*** he ***or she*** will be unable to obtain ***an ignition interlock license during the suspension period*** ~~[a hardship license]~~; and

2. That, if a test is taken, the results of the test may be used against him in court as evidence of violating KRS 189A.010(1), and that ***although his or her license will be suspended, he or she may be eligible immediately for an ignition interlock license allowing him or her to drive during the period of suspension and, if he or she is convicted, he or she will receive a credit toward any other ignition interlock requirement arising from this arrest*** ~~[if the results of the test are 0.15 or above and the person is subsequently convicted of violating KRS 189A.010(1), then he will be subject to a sentence that is twice as long as the mandatory minimum jail sentence imposed if the results are less than 0.15]~~; and

3. That if the person first submits to the requested alcohol and substance tests, the person has the right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested.

(b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of KRS 189A.010, or other statutory violation arising from the incident, when a person is killed or suffers physical injury, as defined in KRS 500.080, as a result of the incident in which the defendant has been charged. However, if the incident involves a motor vehicle accident in which there was a fatality, the investigating peace officer shall seek such a search warrant for blood, breath, or urine testing unless the testing has already been done by consent. If testing done pursuant to a warrant reveals the presence of alcohol or any other substance that impaired the driving ability of a person who is charged with and convicted of an offense arising from the accident, the sentencing court shall require, in addition to any other sentencing provision, that the defendant make restitution to the state for the cost of the testing.

* * * * *

**Section 6. KRS 189A.107 is amended to read as follows:**

(1) A person who refuses to submit to an alcohol concentration or substance test requested by an officer having reasonable grounds to believe that the person violated KRS 189A.010(1) shall have his driver's license suspended by the court during the pendency of the action under KRS 189A.200 ***unless, at the time of arraignment, the person files a motion with the court waiving the right to judicial review of the suspension, after which the court, in its discretion, may authorize the person to apply to the cabinet for issuance of an ignition interlock license under KRS 189A.420 for the period of the suspension. If the person complies with the requirements of KRS 189A.420 and is otherwise eligible, the cabinet shall issue the person an ignition interlock license for the remainder of the suspension period and apply the court-determined credit on a day-for-day basis for any subsequent ignition interlock requirement arising from the same incident.***

(2) In the event a defendant is not convicted of a violation of KRS 189A.010(1) in a case in which it is alleged that he refused to take an alcohol concentration or substance test, upon motion of the attorney for the Commonwealth, the court shall conduct a hearing, without a jury, to determine by clear and convincing evidence if the person actually refused the testing. However, the hearing shall not be required if the court has made a previous determination of the issue at a hearing held under KRS 189A.200 and 189A.220. If the court finds that the person did refuse to submit to the testing, the court shall suspend the person's driver's license for a period of time within the time range specified that the license would have been suspended upon conviction as set forth in KRS 189A.070(1)***, except that the court, in its discretion, may authorize the person to apply to the cabinet for issuance of an ignition interlock license under KRS 189A.420 for the period of the suspension. If the person complies with the requirements of KRS 189A.420 and is otherwise eligible, the cabinet shall issue the person an ignition interlock license for the remainder of the suspension period and grant the person day-for-day credit for any subsequent ignition interlock requirement arising from the same incident.***

**Section 7. KRS 189A.200 is amended to read as follows:**

(1) The court shall at the arraignment or as soon as such relevant information becomes available suspend the motor vehicle operator's license and motorcycle operator's license and driving privileges of any person charged with a violation of KRS 189A.010(1) who:

(a) Has refused to take an alcohol concentration or substance test as reflected on the uniform citation form;

(b) Has been convicted of one (1) or more prior offenses as described in KRS 189A.010(5)(e) or has had his operator's license revoked or suspended on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the five (5) year period immediately preceding his arrest; or

(c) Was involved in an accident that resulted in death or serious physical injury as defined in KRS 500.080 to a person other than the defendant.

(2) Persons whose licenses have been suspended pursuant to this section may file a motion for judicial review of the suspension, and the court shall conduct the review in accordance with this chapter within thirty (30) days after the filing of the motion. The court shall, at the time of the suspension, advise the defendant of his rights to the review. ***If the person files a motion with the court waiving the right to judicial review of the suspension, the court, in its discretion, may authorize the person to apply to the cabinet for issuance of an ignition interlock license under KRS 189A.420 for the period of the suspension. If the person complies with KRS 189A.420 and is otherwise eligible, the cabinet shall issue the person an ignition interlock***

***license for the remainder of the suspension period and apply the court-determined credit on a day-for-day basis for any subsequent ignition interlock requirement arising from the same incident.***

(3) When the court orders the suspension of a license pursuant to this section, the defendant shall immediately surrender the license to the Circuit Court clerk, and the court shall retain the defendant in court or remand him into the custody of the sheriff until the license is produced and surrendered. If the defendant has lost his operator's license, other than due to a previous suspension or revocation, which is still in effect, the sheriff shall take him to the office of the circuit clerk so that a new license can be issued. If the license is currently under suspension or revocation, the provisions of this subsection shall not apply.

(4) The Circuit Court Clerk shall forthwith transmit to the Transportation Cabinet any license surrendered to him pursuant to this section.

(5) Licenses suspended under this section shall remain suspended until a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension, but in no event for a period longer than the maximum license suspension period applicable to the person under KRS 189A.070 and 189A.107. ***Nothing in this subsection shall prevent the person from filing a motion for, the court from granting, or the cabinet from issuing an ignition interlock license under subsection (2) of this section.***

(6) Any person whose operator's license has been suspended pursuant to this section shall be given credit for all pretrial suspension time against the period of revocation imposed. Licenses suspended under this section shall remain suspended until a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension, but in no event for a period longer than the maximum license suspension period applicable to the person under KRS 189A.070 and 189A.107.

**Section 8. KRS 189A.340 is amended to read as follows:**

**(1) ~~[In lieu of ordering license plate impoundment under KRS 189A.085 of a person convicted of a second or subsequent violation of KRS 189A.010, the court may order installation of an ignition interlock device as provided in this section as follows:~~**

~~(a)~~]Except as provided in ***KRS 189A.420(4)*** ~~[paragraph (d) of this subsection]~~, at the time that the court revokes a person's license under any provision of KRS 189A.070~~[ other than KRS 189A.070(1)(a)]~~, ***for an offense in violation of KRS 189A.010(a),(b),(c), or (f),*** the court shall also order that, at the conclusion of the license revocation, ***any license*** the person shall be ***issued shall restrict the person to***~~[prohibited from]~~ operating ***only a***~~[any]~~ motor vehicle or motorcycle ***equipped with***~~[without]~~ a functioning ignition interlock device.

***(a)***~~[(b)]~~ ***The ignition interlock periods shall be as follows:***

1. The first time in a five (5) year period~~[ that a person is penalized under this section]~~, a functioning ignition interlock device shall be installed for a period of six (6) months***, if at the time of offense, any of the aggravating circumstances listed under subsection (11) of KRS 189A.010 were present while the person was operating or in physical control of a motor vehicle***.

2. The second time in a five (5) year period~~[ that a person is penalized under this section]~~, a functioning ignition interlock device shall be installed for a period of twelve (12) months.

3. The third or subsequent time in a five (5) year period~~[ that a person is penalized under this section]~~, a functioning ignition interlock device shall be installed for a period of thirty (30) months.

~~[4. The person whose license has been suspended for a second or subsequent violation of KRS 189A.010 shall not be able to apply to the court for permission to install an ignition interlock device until the person has completed one (1) year of license suspension without any subsequent conviction~~

~~for a violation of KRS 189A.010 or 189A.090. If the court grants permission to install an ignition interlock device, an ignition interlock device shall be installed on all vehicles owned or leased by the person whose license has been suspended.]~~

***(b)*** ~~[(c)]~~ In determining the five (5) year period under paragraph ***(a)*** ~~[(b)]~~ of this subsection, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered, resulting in the license revocations described in KRS 189A.070.

~~[(d) If the court finds that a person is required to operate a motor vehicle or motorcycle in the course and scope of the person's employment and the motor vehicle or motorcycle is owned by the employer, then the court shall order that the person may operate that motor vehicle or motorcycle during regular working hours for the purposes of his or her employment without installation of a functioning ignition interlock device on that motor vehicle or motorcycle if the employer has been notified of the prohibition established under paragraphs (a), (b), and (c) of this subsection.~~

~~(2) Upon ordering the installation of a functioning ignition interlock device, the court, without a waiver or a stay of the following procedure, shall:~~

~~(a) Transmit its order and other appropriate information to the Transportation Cabinet;~~

~~(b) Direct that the Transportation Cabinet records reflect:~~

~~1. That the person shall not operate a motor vehicle or motorcycle without a functioning ignition interlock device, except as provided in paragraph (d) of subsection (1) of this section; and~~

~~2. Whether the court has expressly permitted the person to operate a motor vehicle or motorcycle without a functioning ignition interlock device, as provided in paragraph (d) of subsection (1) of this section;~~

~~(c) Direct the Transportation Cabinet to attach or imprint a notation on the driver's license of any person restricted under this section stating that the person shall operate only a motor vehicle or motorcycle equipped with a functioning ignition interlock device. However, if the exception provided for in paragraph (d) of subsection (1) of this section applies, the notation shall indicate the exception;~~

~~(d) Require proof of the installation of the functioning ignition interlock device and periodic reporting by the person for the verification of the proper functioning of the device;~~

~~(e) Require the person to have the device serviced and monitored at least every thirty (30) days for proper functioning by an entity approved by the Transportation Cabinet; and~~

~~(f) Require the person to pay the reasonable cost of leasing or buying, installing, servicing, and monitoring the device. The court may establish a payment schedule for the person to follow in paying the cost.~~

~~(3) The Transportation Cabinet shall:]~~

***(2) Nothing in this section limits:***

***(a) The person's right to apply for an ignition interlock license during any period of suspension or revocation arising from the same incident;***

***(b) The cabinet's authority to issue an ignition interlock license during any period of suspension or revocation arising from the same incident if the person meets all application requirements and is otherwise eligible for such license; or***

***(c) The person from receiving credit on a day-for-day basis toward any ignition interlock requirement in paragraph (a) of this subsection for any period the person held a valid ignition interlock license during any period of suspension or revocation arising from the same incident.***

***A person prohibited from operating any motor vehicle or motorcycle without a functioning ignition interlock device under paragraph (a) of subsection (1) of this section shall receive any court-determined credit on a day-for-day basis toward any such ignition***

***interlock requirement for any period the person holds a valid ignition interlock license during any period of suspension or revocation arising from the same incident.***

~~[(a) Certify ignition interlock devices for use in this Commonwealth;~~

~~(b) Approve ignition interlock device installers who install functioning ignition interlock devices under the requirements of this section;~~

~~(c) Approve servicing and monitoring entities identified in paragraph (e) of subsection (2) of this section and require those entities to report on driving activity within seven (7) days of servicing and monitoring each ignition interlock device to the respective court, prosecuting attorney, and defendant;~~

~~(d) Publish and periodically update on the Transportation Cabinet Web site a list of the certified ignition interlock devices, the approved ignition interlock installers, and the approved servicing and monitoring entities;~~

~~(e) Develop a warning label that an ignition interlock device installer shall place on a functioning ignition interlock device before installing that device. The warning label shall warn of the penalties established in KRS 189A.345; and~~

~~(f) Promulgate administrative regulations to carry out the provisions of this subsection.]~~

**Section 9. KRS 189A.345 is amended to read as follows**:

(1) No person shall operate a motor vehicle or motorcycle without a functioning ignition interlock device when prohibited to do so under ***KRS 189A.420***~~[ KRS 189A.340(1) or under KRS 189A.410(2)]~~.

(2)(a) No person shall start a motor vehicle or motorcycle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle or motorcycle to a person subject to the prohibition established in ***KRS 189A.420***~~[ KRS 189A.340(1) or under KRS 189A.410(2)(b)]~~.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and
2. For a second or subsequent offense, be guilty of a Class A misdemeanor.

(3)(a) No person shall:

1. Knowingly install a defective ignition interlock device on a motor vehicle or motorcycle; or
2. Tamper with an installed ignition interlock device with the intent of rendering it defective.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and
2. For a second or subsequent offense, be guilty of a Class A misdemeanor and be prohibited from installing ignition interlock devices or directing others in the installation of ignition interlock devices.

(4)(a) No person shall direct another person to install a defective ignition interlock device on a motor vehicle or motorcycle when the person giving the direction knows that the ignition interlock device is defective.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and
2. For a second or subsequent offense, be guilty of a Class A misdemeanor and be prohibited from directing others in the installation of ignition interlock devices or installing ignition interlock devices.

**Section 10. KRS 189A.400 is amended to read as follows:**

(1) The District Court shall have exclusive jurisdiction over the issuance of ***ignition interlock and*** hardship licenses.

(2) The county attorney shall review applications submitted to the District Court and may object to the issuance of ***ignition interlock and*** ~~[ a]~~ hardship ***licenses***~~[license]~~.

**Section 11. KRS 189A.420 is amended to read as follows:**

***(1) A person shall be eligible for an ignition interlock license:***

***(a) During a period of license suspension under KRS Chapter 189A or upon the conclusion of a license revocation period pursuant to KRS 189A.340 or***

***(b) If he or she was convicted pursuant to KRS 189A.010(1)(a), (b), (e), or (f) and has enrolled in and is actively participating or has completed, alcohol or substance treatment.***

*(2)* Before ***authorizing a person to apply for an ignition interlock license***~~[granting hardship driving privileges]~~, the court shall order the ***person***~~[defendant]~~ **to:**

***(a)***~~[(1)]~~ Provide the court with proof of motor vehicle insurance;

***(b)***~~[(2)]~~ ***If necessary,*** provide the court with a written, sworn statement from his employer***, on a form provided by the cabinet,*** detailing~~[ his job, hours of employment, and]~~ the necessity for the defendant to use ***the employer's***~~[a]~~ motor vehicle~~[ either]~~ in his work ***at the direction of the employer during working hours, and acknowledging that the person is restricted from using an employer's nonignition interlock equipped vehicle until the expiration of thirty (30) days from the date of issuance of an ignition interlock license for a first offense or twelve (12) months from the date of issuance of an ignition interlock license for a second or subsequent offense in violation of KRS 189A.010***~~[or in travel to and from work (if the license is sought for employment purposes)]~~; ***and***

~~[(3) If the defendant is self-employed, to provide the information required in subsection (2) together with a sworn and notarized statement (under the penalties of false swearing) as to its truth;~~

~~(4) Provide the court with a written, sworn statement from the school or educational institution which he attends, of his class schedule, courses being undertaken, and the necessity for the defendant to use a motor vehicle in his travel to and from school or other educational institution (if the license is sought for educational purposes). Licenses for educational purposes shall not include participation in sports, social, extracurricular, fraternal, or other noneducational activities;~~

~~(5) Provide the court with a written, sworn statement from a physician, or other medical professional licensed (but not certified) under the laws of Kentucky, attesting to the defendant's normal hours of treatment, and the necessity to use a motor vehicle to travel to and from the treatment (if the license is sought for medical purposes);~~

~~(6) Provide the court with a written, sworn statement from the director of any alcohol or substance abuse education or treatment program as to the hours in which the defendant is expected to participate in the program, the nature of the program, and the necessity for the defendant to use a motor vehicle to travel to and from the program (if the license is sought for alcohol or substance abuse education or treatment purposes);~~

~~(7) Provide the court with a copy of any court order relating to treatment, participation in driver improvement programs, or other terms and conditions ordered by the court relating to the defendant which require the defendant to use a motor vehicle in traveling to and from the court-ordered program. The judge shall include in the order the necessity for the use of the motor vehicle; and]~~

***(c)***~~[(8)]~~ Provide to the court such other information as may be required by administrative regulation of the Transportation Cabinet.

***(3) No court shall grant authorization for a person to operate only motor vehicles or motorcycles equipped with a functioning ignition interlock device, unless and until the person:***

***(a) Provides proof that the person has been issued or has filed a completed application with the Transportation Cabinet for issuance of an ignition interlock license pursuant to KRS 189A.500; and***

***(b) Provides a certificate of installation of an ignition interlock device issued by a certified ignition interlock device provider pursuant to KRS 189A.500.***

***(4) Whenever the court grants authorization to apply for an ignition interlock license pursuant to this section, the court through court order, shall:***

***(a) Prohibit the person from operating any motor vehicle or motorcycle without a functioning ignition interlock device;***

***(b) Require that within the first thirty (30) days of installation of an ignition interlock device and every sixty (60) days thereafter, the person shall have the device serviced pursuant to the administrative regulations promulgated by the cabinet under KRS 189A.500.***

***(c) If the requirements of paragraph (b) of subsection (2) of this section are met, allow that after the expiration of thirty (30) days from the date of issuance of an ignition interlock license for a first offense or twelve (12) months from the date of issuance of an ignition interlock license for a second or subsequent offense in violation of KRS 189A.010, the person may use an employer's nonignition interlock equipped vehicle as part of the employee's job duties if the person is to be authorized by the cabinet to use a nonignition interlock vehicle owned or leased by the employer as part of the employee's job duties.***

***(5) Upon authorizing a person to operate only motor vehicles or motorcycles equipped with a functioning ignition interlock device, the court, without a waiver or a stay of the following procedure, shall:***

***(a) Transmit its order and other appropriate information to the Transportation Cabinet;***

***(b) Direct that the Transportation Cabinet records reflect:***

***1. That during the applicable suspension or revocation period or upon the conclusion of a license revocation period, the person shall not operate a motor vehicle or motorcycle without a functioning ignition interlock device;***

***2. Whether the court has expressly permitted the person to operate a motor vehicle or motorcycle without a functioning ignition interlock device, as provided in paragraph (b) of subsection (2) of this section; and***

***3. Direct the Transportation Cabinet to issue to any person restricted pursuant to this section an ignition interlock license that states the person shall operate only a motor vehicle or motorcycle equipped with a functioning ignition interlock device. However, if the exception provided for in paragraph (b) of subsection (2) of this section applies, the license shall indicate the exception.***

***(6) All persons applying for an ignition interlock license shall pay a nonrefundable application fee to the Transportation Cabinet in an amount not to exceed the actual cost to the cabinet for issuing the ignition interlock license, but not to exceed two hundred dollars ($200).***

***(7) The court shall require the person to pay the reasonable cost of leasing or buying, installing, servicing, and monitoring the device. If the court determines that a defendant is indigent, the court may, based on a sliding scale established by the Supreme Court of Kentucky by rule, require the defendant to pay the costs imposed under this section in an amount that is less than the full amount of the costs associated with the lease, purchase, or installation of an ignition interlock device and associated servicing and monitoring fees. If a***

***defendant pays to an ignition interlock provider the amount ordered by the court under this subsection, the provider shall accept the amount as payment in full. Neither the Commonwealth, Transportation Cabinet, or any unit of state or local government shall be responsible for payment of any costs associated with an ignition interlock device.***

**Section 12. KRS 189A.440 is amended to read as follows:**

(1) No ***person*** ~~[ defendant]~~ who is ***issued an ignition interlock license under KRS 189A.420 or*** ~~[permitted to have]~~ a hardship license shall operate a motor vehicle at any time, place, or for any purpose other than those authorized upon the face of the ***ignition interlock or*** hardship license ***issued under KRS 189A.410.***

(2) Any defendant who violates the provisions of subsection (1) of this section is guilty of a Class A misdemeanor, and shall have his license revoked for the initial period of revocation plus an additional six (6) months.

(3) Any defendant or any other person who knowingly assists the defendant in making a false application statement is guilty of a Class A misdemeanor and shall have his motor vehicle or motorcycle operator's license revoked for six (6) months.

**Section 13. KRS 189A.240 is amended to read as follows:**

In any judicial review of a pretrial suspension imposed under KRS 189A.200(1) ***(a)*** ~~[(b)]~~, if the court determines by a preponderance of the evidence that:

(1) The person was charged and arrested by a peace officer with a violation of KRS 189A.010(1)(a), (b), (c), (d), or (e);

(2) The peace officer had reasonable grounds to believe that the person was operating a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e);

(3) There is probable cause to believe that the person committed the violation of KRS 189A.010(1)(a), (b), (c), (d), or (e) as charged; and

(4) The person has been convicted of one (1) or more prior offenses as described in KRS 189A.010(5)(e) or has had his motor vehicle operator's license suspended or revoked on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the five (5) year period immediately preceding his arrest, then the court shall continue to suspend the person's operator's license or privilege to operate a motor vehicle. The provisions of this section shall not be construed as limiting the person's ability to challenge any prior convictions or license suspensions or refusals.

**Section 14. KRS 189A.250 is amended to read as follows:**

In any judicial review of a pretrial suspension imposed under KRS 189A.200(1) ***(b)*** ~~[(c)]~~, if the court determines by a preponderance of the evidence that:

(1) The person was charged and arrested by a peace officer with violation of KRS 189A.010;

(2) The officer had reasonable grounds to believe that the person was operating or in physical control of a motor vehicle in violation of KRS 189A.010;

(3) There is probable cause to believe that the person committed the violation of KRS 189A.010(1) as charged; and

(4) There is probable cause to believe that the person was involved in an accident that resulted in death or serious physical injury as defined in KRS 500.080 to a person other than the defendant;

then the court shall continue the suspension of the person's operator's license or privilege to operate a motor vehicle during the pendency of the proceedings.

***SECTION 15. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:***

***189A.500 Ignition interlock devices and licenses -- Certification of devices and device providers -- Provider contract provisions.***

***(1) The Transportation Cabinet shall:***

***(a) Issue ignition interlock license application forms and other forms necessary for the implementation of ignition interlock licenses;***

***(b) Create a uniform certificate of installation to be provided to a defendant by an ignition interlock provider upon installation of a certified ignition interlock device;***

***(c) Create an ignition interlock license for issuance to any person granted authorization by the court to receive an ignition interlock license;***

***(d) Certify ignition interlock devices approved for use in the Commonwealth;***

***(e) Publish and periodically update on the Transportation Cabinet Web site a list of contact information, including a link to the Web site of each certified ignition interlock device provider, with the entity appearing first on the list changing on a statistically random basis each time a unique visitor visits the list of the approved ignition interlock installers and the approved servicing and monitoring entities; and***

***(f) Promulgate administrative regulations to carry out the provisions of this section.***

***(2) No model of ignition interlock device shall be certified for use in the Commonwealth unless it meets or exceeds standards promulgated by the Transportation Cabinet pursuant to this section.***

***(3) In bidding for the contract with the Transportation Cabinet to provide ignition interlock devices and servicing or monitoring or both, the ignition interlock provider shall take into account that some defendants will not be able to pay the full cost of the ignition interlock device or servicing and monitoring fees.***

***(4) Upon June 24, 2015, any contract between the cabinet and an ignition interlock device provider shall include the following:***

***(a) A requirement that the provider accept reduced payments as a full payment for all purposes from persons determined to be indigent by a court authorizing the use of an ignition interlock device pursuant to KRS 189A.420(7);***

***(b) A requirement that no unit of state or local government and no public officer or employee shall be liable for the cost of purchasing or installing the ignition interlock device or associated costs;***

***(c) A requirement that the provider agree to a price for the cost of leasing or purchasing an ignition interlock device and any associated servicing or monitoring fees during the duration of the contract. This price shall not be increased but may be reduced during the duration of the contract;***

***(d) Requirements and standards for the servicing, inspection, and monitoring of the ignition interlock device;***

***(e) Provisions for training for service center technicians and clients;***

***(f) A requirement that the provider electronically transmit reports on driving activity within seven (7) days of servicing an ignition interlock device to the respective court, prosecuting attorney, and defendant;***

***(g) Requirements for a transition plan for the ignition interlock device provider before the provider leaves the state to ensure that continuous monitoring is achieved and to provide a minimum forty-five (45) day notice to the cabinet of any material change to the design of the ignition interlock device, or any changes to the vendor's installation, servicing, or monitoring capabilities;***

***(h) A requirement that, before beginning work, the ignition interlock device provider have and maintain insurance as approved by the cabinet, including vendor's public liability and property damage insurance, in an amount determined by the cabinet, that covers the cost of defects or problems with product design, materials, workmanship during manufacture, calibration, installation, device removal, or any use thereof;***

***(i) A provision requiring that an ignition interlock provider agree to hold harmless and indemnify any unit of state or local government, public officer, or employee from all claims, demands, and actions, as a result of damage or injury to persons or property which may arise, directly or indirectly, out of any action or omission by the ignition interlock provider relating to the installation, service, repair, use, or removal of an ignition interlock device;***

***(j) A requirement that a warning label to be affixed to each ignition interlock device upon installation. The label shall contain a warning that any person who tampers with, circumvents, or otherwise misuse the device commits a violation of law under KRS 189A.345; and***

***(k) A requirement that a provider will remove an ignition interlock device without cost, if the device is found to be defective.***

**Section 16. KRS 189A.410 is amended to read as follows:**

(1) At any time following the expiration of the minimum license suspension periods enumerated in*:*

*(a)* KRS 189A.010(6)***; or***~~[,]~~

*(b)* KRS 189A.070 ***for a violation of:***~~[, and 189A.107,]~~

***1. KRS 189A.010(1)(c) or (d); or***

***2. KRS 189A.010(1)(a), (b), or (e) for a first offense within a five (5) year period if, at the time of the offense, none of the aggravating circumstances enumerated under KRS 189A.010(11) were present while the person was operating or in control of a motor vehicle;***

the court may grant the person hardship driving privileges for the balance of the suspension period imposed by the court, upon written petition of the defendant, if ***the court***~~[ it]~~ finds reasonable cause to believe that revocation would hinder the person's ability to ***continue his employment; continue attending school or an educational institution; obtain necessary medical care; attend driver improvement, alcohol, or substance abuse education programs; or attend court-ordered counseling or other programs***~~[:~~

~~(a) Continue his employment;~~

~~(b) Continue attending school or an educational institution;~~

~~(c) Obtain necessary medical care;~~

~~(d) Attend driver improvement, alcohol, or substance abuse education programs; or~~

~~(e) Attend court-ordered counseling or other programs~~].

**(2)** ***Before granting hardship driving privileges, the court shall order the person to:***

***(a) Provide the court with proof of motor vehicle insurance;***

***(b) If necessary, provide the court with a written, sworn statement from his or her employer, on a form provided by the cabinet, detailing his or her job, hours of employment, and the necessity for the person to use the employer's motor vehicle either in his or her work at the direction of the employer during working hours, or in travel to and from work if the license is sought for employment purposes; and***

***(c) If the person is self-employed, to provide the information required in paragraph (b) of this subsection together with a sworn statement as to its truth;***

***(d) Provide the court with a written, sworn statement from the school or educational***

***institution which he attends, of his or her class schedule, courses being undertaken, and the necessity for the person to use a motor vehicle in his travel to and from school or other educational institution if the license is sought for educational purposes. Licenses for educational purposes shall not include participation in sports, social, extracurricular, fraternal, or other noneducational activities;***

***(e) Provide the court with a written, sworn statement from a physician, or other medical professional licensed but not certified under the laws of Kentucky, attesting to the person's normal hours of treatment, and the necessity to use a motor vehicle to travel to and from the treatment if the license is sought for medical purposes;***

***(f) Provide the court with a written, sworn statement from the director of any alcohol or substance abuse education or treatment program as to the hours in which the person is expected to participate in the program, the nature of the program, and the necessity for the person to use a motor vehicle to travel to and from the program if the license is sought for alcohol or substance abuse education or treatment purposes;***

***(g) Provide the court with a copy of any court order relating to treatment, participation in driver improvement programs, or other terms and conditions ordered by the court relating to the person which require him or her to use a motor vehicle in traveling to and from the court-ordered program. The judge shall include in the order the necessity for the use of the motor vehicle; and***

***(h) Provide to the court any information as may be required by administrative regulation of the Transportation Cabinet***~~[Whenever the court grants a person hardship driving privileges under subsection (1) of this section, the court through court order, may:~~

~~(a) Prohibit the person from operating any motor vehicle or motorcycle without a functioning ignition interlock device;~~

~~(b) Require that the person comply with all of the requirements of KRS 189A.340, except for the requirements found in KRS 189A.340(1); and~~

~~(c) Require the person to install an ignition interlock device on every vehicle owned or leased by the person who is permitted to operate a motor vehicle under this section~~].

(3) The court shall not issue a hardship license to a person who has refused to take an alcohol concentration or substance test or tests offered by a law enforcement officer.

## SENATE BILL 161 FLAG DISPLAY

***SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:***

***KRS 2.041 The Governor is authorized and requested to issue a proclamation calling upon state officials to display the United States flag at half-staff on all state buildings from sunrise to sunset for not less than one (1) day in the event of the death of Kentucky emergency response personnel in the line of duty.***

**EMERGENCY**
**SENATE BILL 192 CONTROLLED SUBSTANCES / HEROIN**
**SIGNED INTO LAW AND EFFECTIVE AS OF MARCH 23, 2015**

Effective date June 24, 2015

**Section 1. KRS 72.026 is amended to read as follows:**

(1) ~~[Unless another cause of death is clearly established, ]~~In cases requiring a post-mortem examination under KRS 72.025, the coroner or medical examiner shall take a ***biological***~~[blood]~~ sample and have it tested for the presence of any controlled substances which were in the body at the time of death ***and which at the scene may have contributed to the cause of death.***

(2) If a coroner or medical examiner determines that a drug overdose is the cause of death of a person, he or she shall provide notice of the death to:

(a) The state registrar of vital statistics and the Department of Kentucky State Police. The notice shall include any information relating to the drug that resulted in the overdose. The state registrar of vital statistics shall not enter the information on the deceased person's death certificate unless the information is already on the death certificate;~~[ and]~~

(b) The licensing board for the individual who prescribed or dispensed the medication, if known. The notice shall include any information relating to the drug that resulted in the overdose, including the individual authorized by law to prescribe or dispense drugs who dispensed or prescribed the drug to the decedent***; and***

***(c) For coroners only, the Commonwealth's attorney and a local law enforcement agency in the circuit where the death occurred, if the death resulted from the use of a Schedule I controlled substance. The notice shall include all information as to the types and concentrations of Schedule I drugs detected***.

This subsection shall not apply to reporting the name of a pharmacist who dispensed a drug based on a prescription.

(3) The state registrar of vital statistics shall report, within five (5) business days of the receipt of a certified death certificate or amended death certificate, to the Division of Kentucky State Medical Examiners Office, any death which has resulted from the use of drugs or a drug overdose.

(4) The Justice and Public Safety Cabinet in consultation with the Kentucky State Medical Examiners Office shall promulgate administrative regulations necessary to administer this section.

**Section 2. KRS 100.982 is amended to read as follows:**

As used in KRS 100.982 to 100.984, unless the context otherwise requires:

(1) "Person with a disability" means a person with a physical, emotional, or mental disability, including, but not limited to, an intellectual disability, cerebral palsy, epilepsy, autism, deafness or hard of hearing, sight impairments, and orthopedic impairments, but not including convicted felons or misdemeanants on probation or parole or receiving supervision or rehabilitation services as a result of their prior conviction, or mentally ill persons who have pled guilty but mentally ill to a crime or not guilty by reason of insanity to a crime. "Person with a disability" does not include persons with current, illegal use of ~~[or addiction to ]~~alcohol or any controlled substance as regulated under KRS Chapter 218A.

**Section 3. KRS 196.288 is amended to read as follows:**

* * * * *

(3) The department shall determine the average cost of:

(a) Incarceration for each type of penitentiary as defined in KRS 197.010 and for local jails, including health care costs, transportation costs, and other related costs, for one (1) inmate for one (1) year for the immediately preceding fiscal year;~~[ and]~~

(b) Providing probation and parole services for one (1) parolee for one (1) year for the

immediately preceding fiscal year***; and***

***(c) Reentry services and peer support as a condition of parole for those with opiate addiction and other substance abuse disorders***.

* * * * *

(5) The following amounts shall be allocated or distributed from the estimated amount of savings that would otherwise remain in the general fund:

(a) Twenty-five percent (25%) shall be distributed to the local corrections assistance fund established by KRS 441.207;~~[ and]~~

(b) ***Fifty percent (50%) shall be distributed for the following purposes:***

***1. To the department to provide or to contract for the provision of substance abuse treatment in county jails, regional jails, or other local detention centers that employ evidence-based practices in behavioral health treatment or medically assisted treatment for nonstate inmates with opiate addiction or other substance abuse disorders;***

***2. For KY-ASAP programs operating under KRS Chapter 15A in county jails or in facilities under the supervision of county jails that employ evidence-based behavioral health treatment or medically assisted treatment for inmates with opiate addiction or other substance abuse disorders;***

***3. To KY-ASAP to provide supplemental grant funding to community mental health centers for the purpose of offering additional substance abuse treatment resources through programs that employ evidence-based behavioral health treatment or medically assisted treatment;***

***4. To KY-ASAP to address neonatal abstinence syndrome by providing supplemental grant funding to community substance abuse treatment providers to offer residential treatment services to pregnant women through programs that employ evidence-based behavioral health treatment or medically assisted treatment;***

***5. To provide supplemental funding for traditional KY-ASAP substance abuse programming under KRS Chapter 15A;***

***6. To the department for the purchase of an FDA-approved extended-release treatment for the prevention of relapse to opiate dependence with a minimum of fourteen (14) days effectiveness with an opioid antagonist function for use as a component of evidence-based medically assisted treatment for inmates with opiate addiction or substance abuse disorders participating in a substance abuse treatment program operated or supervised by the department;***

***7. To the Department for Public Advocacy to provide supplemental funding to the Social Worker Program for the purpose of creating additional social worker positions to develop individualized alternative sentencing plans; and***

***8. To the Prosecutors Advisory Council to enhance the use of rocket docket prosecutions in controlled substance cases; and***

***(c)*** In enacting the budget for the department and the judicial branch, beginning in the 2012-2014 fiscal biennium and each fiscal biennium thereafter, the General Assembly shall:

1. Determine the estimated amount necessary for reinvestment in:

a. Expanded treatment programs and expanded probation and parole services provided by or through the department; and

b. Additional pretrial services and drug court case specialists provided by or through the Administrative Office of the Courts; and

2. Shall allocate and appropriate sufficient amounts to fully fund these reinvestment programs.

(6) The amount of savings shall be estimated each year of the 2012-2014 fiscal biennium, and for each year of each fiscal biennium thereafter, as specified in subsection (4) of this section.

* * * * *

**Section 4. KRS 205.560 is amended to read as follows:**

(1) The scope of medical care for which the Cabinet for Health and Family Services undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance Program and the dentist prior to the removal of the teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for health and family services after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including but not limited to the following categories, except where the aid is for the purpose of obtaining an abortion:

* * * * *

(12)***(a)*** The Medical Assistance Program shall use the ***appropriate*** form and guidelines ~~[established pursuant to KRS 304.17A-545(5) ]~~for ***enrolling***~~[assessing the credentials of]~~ those ***providers*** applying for participation in the Medical Assistance Program, including those licensed and regulated under KRS Chapters 311, 312, 314, 315, and 320, any facility required to be licensed pursuant to KRS Chapter 216B, and any other health care practitioner or facility as determined by the Department for Medicaid Services through an administrative regulation promulgated under KRS Chapter 13A. ***A Medicaid managed care organization shall use the forms and guidelines established under KRS 304.17A-545(5) to credential a provider.*** For any provider who ***contracts with and*** is credentialed by a Medicaid managed care organization ***prior to enrollment,*** the cabinet shall complete the enrollment ~~[and credentialing]~~ process and deny, or approve and issue a ***Provider Identification Number (PID)***~~[Medical Assistance Identification Number (MAID)]~~ within fifteen (15) business days from the time all necessary completed ***enrollment***~~[credentialing]~~ forms have been submitted and all outstanding accounts receivable have been satisfied.

***(b) Within forty-five (45) days of receiving a correct and complete provider application, the Department for Medicaid Services shall complete the enrollment process by either denying or approving and issuing a Provider Identification Number (PID) for a behavioral health provider who provides substance use disorder services, unless the department notifies the provider that additional time is needed to render a decision for resolution of an issue or dispute.***

***(c) Within forty-five (45) days of receipt of a correct and complete application for credentialing by a behavioral health provider providing substance use disorder services, a Medicaid managed care organization shall complete its contracting and credentialing process, unless the Medicaid managed care organization notifies the provider that additional time is needed to render a decision. If additional time is needed, the Medicaid managed care organization shall not take any longer than ninety (90) days from receipt of***

***the credentialing application to deny or approve and contract with the provider.***
***(d) A Medicaid managed care organization shall adjudicate any clean claims submitted for a substance use disorder service from an enrolled and credentialed behavioral health provider who provides substance use disorder services in accordance with KRS 304.17A-700 to 304.17A-730.***
***(e) The Department of Insurance may impose a civil penalty of one hundred dollars ($100) per violation when a Medicaid managed care organization fails to comply with this section. Each day that a Medicaid managed care organization fails to pay a claim may count as a separate violation.***

* * * * *

***SECTION 5. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:***
***KRS 205.6311 Substance use disorder treatment benefit – Administrative regulations – Contracts with Medicaid managed care organizations – Annual report.***
***(1) The Department for Medicaid Services shall provide a substance use disorder benefit consistent with federal laws and regulations which shall include a broad array of treatment options for those with heroin and other substance use disorders.***
***(2) The department shall promulgate administrative regulations to implement this section and to expand the behavioral health network to allow providers to provide services within their licensure category.***
***(3) Providers of peer-mediated, recovery-oriented, therapeutic community models of care shall have the opportunity to contract with managed care organizations to be reimbursed for any portion of those services that are provided by licensed or certified providers in accordance with approved billing codes.***
***(4) A Medicaid managed care organization shall:***
***(a) Authorize treatment for each diagnosis related to substance use disorder and co-occurring mental health and substance use disorder covered by Medicaid that is identified within the most updated edition of the Diagnostic and Statistical Manual of Mental Disorders issued by the American Psychiatric Association that meets the criteria for medical necessity and level of care; and***
***(b) Approve coverage and payment for continuing care at the appropriate level of care.***
***(5) Beginning January 1, 2016, the Department for Medicaid Services shall provide an annual report to the Legislative Research Commission detailing the number of providers of substance use disorder treatment, the type of services offered by each provider, the geographic distribution of providers, and a summary of expenditures on substance use disorder treatment services provided by Medicaid.***

**Section 6. KRS 216B.020 is amended to read as follows:**
(1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to abortion facilities as defined in KRS 216B.015; any hospital which does not charge its patients for hospital services and does not seek or accept Medicare, Medicaid, or other financial support from the federal government or any state government; assisted living residences; family care homes; state veterans' nursing homes; services provided on a contractual basis in a rural primary-care hospital as provided under KRS 216.380; community mental health centers for services as defined in KRS Chapter 210; primary care centers; rural health clinics; private duty nursing services licensed as nursing pools; group homes; ***licensed residential crisis stabilization units, which***

***may be part of a licensed psychiatric hospital; licensed free-standing residential substance use disorder treatment programs with sixteen (16) or fewer beds, but not including Levels I and II psychiatric residential treatment facilities or licensed psychiatric inpatient beds; outpatient behavioral health treatment, but not including partial hospitalization programs;*** end stage renal disease dialysis facilities, freestanding or hospital based; swing beds; special clinics, including but not limited to wellness, weight loss, family planning, disability determination, speech and hearing, counseling, pulmonary care, and other clinics which only provide diagnostic services with equipment not exceeding the major medical equipment cost threshold and for which there are no review criteria in the state health plan; nonclinically related expenditures; nursing home beds that shall be exclusively limited to on-campus residents of a certified continuing care retirement community; home health services provided by a continuing care retirement community to its on-campus residents; the relocation of hospital administrative or outpatient services into medical office buildings which are on or contiguous to the premises of the hospital; residential hospice facilities established by licensed hospice programs; or the following health services provided on site in an existing health facility when the cost is less than six hundred thousand dollars ($600,000) and the services are in place by December 30, 1991: psychiatric care where chemical dependency services are provided, level one (1) and level two (2) of neonatal care, cardiac catheterization, and open heart surgery where cardiac catheterization services are in place as of July 15, 1990. The provisions of this section shall not apply to nursing homes, personal care homes, intermediate care facilities, and family care homes; or nonconforming ambulance services as defined by administrative regulation. These listed facilities or services shall be subject to licensure, when applicable.

* * * * *

***SECTION 7. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:***

***KRS 216B.402 Protocol for treatment of drug overdose.***

***When a person is admitted to a hospital emergency department or hospital emergency room for treatment of a drug overdose:***

***(1) The person shall be informed of available substance use disorder treatment services known to the hospital that are provided by that hospital, other local hospitals, the local community mental health center, and any other local treatment programs licensed pursuant to KRS 222.231;***

***(2) The hospital may obtain permission from the person when stabilized, or the person's legal representative, to contact any available substance use disorder treatment programs offered by that hospital, other local hospitals, the local community mental health center, or any other local treatment programs licensed pursuant to KRS 222.231, on behalf of the person to connect him or her to treatment; and***

***(3) The local community mental health center may provide an on-call service in the hospital emergency department or hospital emergency room for the person who was treated for a drug overdose to provide information about services and connect the person to substance use disorder treatment, as funds are available. These services, when provided on the grounds of a hospital, shall be coordinated with appropriate hospital staff.***

**Section 8. KRS 217.186 is amended to read as follows:**

**(1)** A licensed health-care provider who, acting in good faith, directly or by standing order, prescribes or dispenses the drug naloxone to a ***person or agency***~~[patient]~~ who, in the judgment of the health-care provider, is capable of administering the drug for an emergency opioid overdose,

shall not, as a result of his or her acts or omissions, be subject to disciplinary or other adverse action under KRS Chapter 311, 311A, 314, or 315 or any other professional licensing statute. ***As used in this subsection, "licensed health-care provider" includes a pharmacist as defined in KRS 315.010 who holds a separate certification issued by the Kentucky Board of Pharmacy authorizing the initiation of the dispensing of naloxone under subsection (5) of this section.***

(2) A prescription for naloxone may include authorization for administration of the drug to the person for whom it is prescribed by a third party if the prescribing instructions indicate the need for the third party upon administering the drug to immediately notify a local public safety answering point of the situation necessitating the administration.

***(3) A person or agency, including a peace officer, jailer, firefighter, paramedic, or emergency medical technician or a school employee authorized to administer medication under KRS 156.502, may:***

***(a) Receive a prescription for the drug naloxone;***

***(b) Possess naloxone pursuant to this subsection and any equipment needed for its administration; and***

***(c) Administer naloxone to an individual suffering from an apparent opiate-related overdose.***

*(4)* A person acting in good faith who administers naloxone ***received*** ~~[as the third party]~~ under this section shall be immune from criminal and civil liability for the administration, unless personal injury results from the gross negligence or willful or wanton misconduct of the person administering the drug.

***(5) (a) The Board of Pharmacy, in consultation with the Kentucky Board of Medical Licensure, shall promulgate administrative regulations to establish certification, educational, operational, and protocol requirements to implement this section.***

***(b) Administrative regulations promulgated under this subsection shall:***

***1. Require that any dispensing under this section be done only in accordance with a physician-approved protocol and specify the minimum required components of any such protocol;***

***2. Include a required mandatory education requirement as to the mechanism and circumstances for the administration of naloxone for the person to whom the naloxone is dispensed; and***

***3. Require that a record of the dispensing be made available to a physician signing a protocol under this subsection, if desired by the physician.***

***(c) Administrative regulations promulgated under this subsection may include:***

***1. A supplemental educational or training component for a pharmacist seeking certification under this subsection; and***

***2. A limitation on the forms of naloxone and means of its administration that may be dispensed pursuant to this subsection.***

***(6) (a) The board of each local public school district and the governing body of each private and parochial school or school district may permit a school to keep naloxone on the premises and regulate the administration of naloxone to any individual suffering from an apparent opiate-related overdose.***

***(b) In collaboration with local health departments, local health providers, and local schools and school districts, the Kentucky Department for Public Health shall develop clinical protocols to address supplies of naloxone kept by schools under this section and to advise on the clinical administration of naloxone.***

***SECTION 9. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:***

***KRS 218A.278 Pilot program to analyze outcomes and effectiveness of substance abuse treatment programs.***

***(1) For the purposes of this section:***

***(a) "Analyze" means to apply scientific and mathematical measures to determine meaningful patterns and associations in data. "Analyze" includes descriptive analysis to examine historical data, predictive analysis to examine future probabilities and trends, and prescriptive analysis to examine how future decisions may impact the population and trends; and***

***(b) "Pilot program" means a program in a county or set of counties, or a subset or subsets of the population, as designated by the Cabinet for Health and Family Services and the Office of Drug Control Policy for analyzing the effectiveness of substance abuse treatment services in Kentucky.***

***(2) The general purpose of this section is to assist in the development of a pilot program to analyze the outcomes and effectiveness of substance abuse treatment programs in order to ensure that the Commonwealth is:***

***(a) Addressing appropriate risk and protective factors for substance abuse in a defined population;***

***(b) Using approaches that have been shown to be effective;***

***(c) Intervening early at important stages and transitions;***

***(d) Intervening in appropriate settings and domains; and***

***(e) Managing programs effectively.***

***(3) Sources of data for the pilot program shall include, at a minimum, claims under the Kentucky Department for Medicaid Services, the electronic monitoring system for controlled substances established under KRS 218A.202, and the Department of Workers' Claims within the Labor Cabinet.***

***(4) As funds are available, the Cabinet for Health and Family Services and the Office of Drug Control Policy shall initiate a pilot program to determine, collect, and analyze performance measurement data for substance abuse treatment services to determine practices that reduce frequency of relapse, provide better outcomes for patients, hold patients accountable, and control health costs related to substance abuse.***

***(5) By December 31, 2016, the Cabinet for Health and Family Services and the Office of Drug Control Policy shall issue a joint report to the Legislative Research Commission and the Office of the Governor that:***

***(a) Details the findings of the pilot program;***

***(b) Includes recommendations based on the pilot program's results for optimizing substance abuse treatment services; and***

***(c) Includes recommendations for the continued application of analytics to further augment Kentucky's approach to fighting substance abuse in the future.***

**Section 10. KRS 218A.050 is amended to read as follows:**

Unless otherwise rescheduled by administrative regulation of the Cabinet for Health and Family Services, the controlled substances listed in this section are included in Schedule I:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, or salts is possible within the specific chemical designation: ***Acetylfentanyl;*** Acetylmethadol; Allylprodine;

Alphacetylmethadol; Alphameprodine; Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; tromoramide; Dextrorphan; Diampromide; Diethylthiambutene; Dimenoxadol; Dimepheptanol; Dimethylthiambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene; Etoxeridine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide; Levophenacylmorphan; Morpheridine; Noracymethadol; Norlevorphanol; Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide; Trimeperidine;

* * * * *

***SECTION 11. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:***

***KRS 218A.133 Exemption from prosecution for possession of controlled substance or drug paraphernalia if seeking assistance with drug overdose.***

***(1) As used in this section:***

***(a) "Drug overdose" means an acute condition of physical illness, coma, mania, hysteria, seizure, cardiac arrest, cessation of breathing, or death which reasonably appears to be the result of consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a layperson would reasonably believe requires medical assistance; and***

***(b) "Good faith" does not include seeking medical assistance during the course of the execution of an arrest warrant, or search warrant, or a lawful search.***

***(2) A person shall not be charged with or prosecuted for a criminal offense prohibiting the possession of a controlled substance or the possession of drug paraphernalia if:***

***(a) In good faith, medical assistance with a drug overdose is sought from a public safety answering point, emergency medical services, a law enforcement officer, or a health practitioner because the person:***

***1. Requests emergency medical assistance for himself or herself or another person; or***

***2. Acts in concert with another person who requests emergency medical assistance; or***

***3. Appears to be in need of emergency medical assistance and is the individual for whom the request was made;***

***(b) The person remains with, or is, the individual who appears to be experiencing a drug overdose until the requested assistance is provided; and***

***(c) The evidence for the charge or prosecution is obtained as a result of the drug overdose and the need for medical assistance.***

***(3) The provisions of subsection (2) of this section shall not extend to the investigation and prosecution of any other crimes committed by a person who otherwise qualifies under this section.***

***(4) When contact information is available for the person who requested emergency medical assistance, it shall be reported to the local health department. Health department personnel shall make contact with the person who requested emergency medical assistance in order to offer referrals regarding substance abuse treatment, if appropriate.***

***(5) A law enforcement officer who makes an arrest in contravention of this section shall not be criminally or civilly liable for false arrest or false imprisonment if the arrest was based on probable cause.***

***SECTION 12. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:***

***KRS 218A.274 Pregnant women to receive priority by state-funded substance abuse treatment or recovery service providers.***

***Substance abuse treatment or recovery service providers that receive state funding shall give pregnant women priority in accessing services and shall not refuse access to services solely due to pregnancy as long as the provider's services are appropriate for pregnant women.***

***SECTION 13. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:***

***KRS 218A.1410 Importing heroin.***

***(1) A person is guilty of importing heroin when he or she knowingly and unlawfully transports any quantity of heroin into the Commonwealth by any means with the intent to sell or distribute the heroin.***

***(2) The provisions of this section are intended to be a separate offense from others in this chapter, and shall be punished in addition to violations of this chapter occurring during the same course of conduct.***

***(3) Importing heroin is a Class C felony, and the defendant shall not be released on probation, shock probation, conditional discharge, or parole until he or she has served at least fifty percent (50%) of the sentence imposed.***

**Section 14. KRS 218A.1412 is amended to read as follows:**

(1) A person is guilty of trafficking in a controlled substance in the first degree when he or she knowingly and unlawfully traffics in:

(a) Four (4) grams or more of cocaine;

(b) Two (2) grams or more of heroin***, fentanyl,*** or methamphetamine;

(c) Ten (10) or more dosage units of a controlled substance that is classified in Schedules I or II and is a narcotic drug, or a controlled substance analogue;

(d) Any quantity of lysergic acid diethylamide; phencyclidine; gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of isomers, and analogues; or flunitrazepam, including its salts, isomers, and salts of isomers; or

(e) Any quantity of a controlled substance specified in paragraph (a), (b), or (c) of this subsection in an amount less than the amounts specified in those paragraphs.

(2) The amounts specified in subsection (1) of this section may occur in a single transaction or may occur in a series of transactions over a period of time not to exceed ninety (90) days that cumulatively result in the quantities specified in this section.

(3) (a) ~~[Except as provided in paragraph (b) of this subsection, ]~~Any person who violates the provisions of ***subsection (1)(a), (b), (c), or (d) of*** this section shall be guilty of a Class C felony for the first offense and a Class B felony for a second or subsequent offense.

(b) Any person who violates the provisions of subsection (1)(e) of this section***:***

***1.*** Shall be guilty of a Class D felony for the first offense and a Class C felony for a second~~[ offense]~~ or subsequent offense***; and***

***2.a.Except as provided in subdivision b. of this subparagraph, where the trafficked substance was heroin and the defendant committed the offense while possessing more than one (1) items of paraphernalia, including but not limited to scales, ledgers, instruments and material to cut, package, or mix the final product, excess cash, multiple subscriber identity modules in excess of the number of communication devices possessed by the person at the time of arrest, or weapons, which given the totality of the circumstances, indicate the***

***trafficking to have been a commercial activity, shall not be released on parole until he or she has served at least fifty percent (50%) of the sentence imposed.***

***b. This subparagraph shall not apply to a person who has been determined by a court to have had a substance use disorder relating to a controlled substance at the time of the offense. "Substance use disorder" shall have the same meaning as in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.***

***(c) Any person convicted of a Class C felony offense or higher under this section shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed in cases where the trafficked substance was heroin***.

***SECTION 15. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:***

***KRS 218A.142 Aggravated trafficking in controlled substance in first degree.***

***(1) A person is guilty of aggravated trafficking in a controlled substance in the first degree when he or she knowingly and unlawfully traffics in one hundred (100) grams or more of heroin.***

***(2) Aggravated trafficking in a controlled substance in the first degree is a Class B felony, and the defendant shall not be released on probation, shock probation, conditional discharge, or parole until he or she has served at least fifty percent (50%) of the sentence imposed.***

**Section 16. KRS 218A.1414 is amended to read as follows:**

(1) A person is guilty of trafficking in a controlled substance in the third degree when he or she knowingly and unlawfully traffics in:

(a) Twenty (20) or more dosage units of a controlled substance classified in Schedules IV or V; or

(b) Any quantity of a controlled substance specified in paragraph (a) of this subsection in an amount less than the amount specified in that paragraph.

(2) (a) Any person who violates the provisions of subsection (1)(a) of this section shall be guilty of***:***

***1.*** A Class A misdemeanor for ***a***~~[the]~~ first offense ***involving one hundred twenty (120) or fewer dosage units;***

***2. A Class D felony for a first offense involving more than one hundred twenty (120) dosage units;*** and

***3.*** A Class D felony for a second or subsequent offense.

(b) Any person who violates the provisions of subsection (1)(b) of this section shall be guilty of:

1. A Class A misdemeanor for the first offense, subject to the imposition of presumptive probation; and

2. A Class D felony for a second or subsequent offense, except that KRS Chapter 532 to the contrary notwithstanding, the maximum sentence to be imposed shall be no greater than three (3) years.

***SECTION 17. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:***

***KRS 218A.136 Utilization of faith-based residential treatment program – Conditions.***

***(1) An offender charged with a felony pursuant to this chapter who is not charged with a***

***violent offense, who is eligible for diversion or deferred prosecution of his or her sentence, and whose diversion or deferred prosecution plan involves substance use disorder treatment may be afforded the opportunity to utilize a faith-based residential treatment program.***

***(2) If an offender and judge support this faith-based residential treatment program, and the cost of the program is less than that of the substance use disorder treatment that would otherwise be provided, then the court may approve the faith-based residential treatment program for a specified period of time. An offender shall sign a commitment to comply by the terms of the faith-based residential treatment program.***

***(3) If an offender violates the terms of the commitment he or she has signed with the faith-based residential treatment program, then the offender shall be returned to the court for additional proceedings.***

**Section 18. KRS 218A.500 is amended to read as follows:**

As used in this section and KRS 218A.510:

(1) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. It includes but is not limited to:

(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

(h) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(i) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(k) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body; and

(l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips which mean objects used to hold burning material, such as marijuana

cigarettes, that have become too small or too short to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice pipes or chillers.

(2) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter.

(3) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.

(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(5) ***(a) This section shall not prohibit a local health department from operating a substance abuse treatment outreach program which allows participants to exchange hypodermic needles and syringes.***

***(b) To operate a substance abuse treatment outreach program under this subsection, the local health department shall have the consent, which may be revoked at any time, of the local board of health and:***

***1. The legislative body of the first or home rule class city in which the program would operate if located in such a city; and***

***2. The legislative body of the county, urban-county government, or consolidated local government in which the program would operate.***

***(c) Items exchanged at the program shall not be deemed drug paraphernalia under this section while located at the program.***

***(6) (a) Prior to searching a person, a person's premises, or a person's vehicle, a peace officer may inquire as to the presence of needles or other sharp objects in the areas to be searched that may cut or puncture the officer and offer to not charge a person with possession of drug paraphernalia if the person declares to the officer the presence of the needle or other sharp object. If, in response to the offer, the person admits to the presence of the needle or other sharp object prior to the search, the person shall not be charged with or prosecuted for possession of drug paraphernalia for the needle or sharp object or for possession of a controlled substance for residual or trace drug amounts present on the needle or sharp object.***

***(b) The exemption under this subsection shall not apply to any other drug paraphernalia that may be present and found during the search or to controlled substances present in other than residual or trace amounts.***

*(7)* Any person who violates any provision of this section shall be guilty of a Class A misdemeanor.

**Section 19. KRS 439.3401 is amended to read as follows:**

(1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of:

(a) A capital offense;

(b) A Class A felony;

(c) A Class B felony involving the death of the victim or serious physical injury to a victim;

(d) An offense described in KRS 507.040 or 507.050 where the offense involves the killing of a peace officer or firefighter while the officer or firefighter was acting in the line of duty;

(e) The commission or attempted commission of a felony sexual offense described in KRS Chapter 510;

(f) Use of a minor in a sexual performance as described in KRS 531.310;

(g) Promoting a sexual performance by a minor as described in KRS 531.320;

(h) Unlawful transaction with a minor in the first degree as described in KRS 530.064(1)(a);

(i) Human trafficking under KRS 529.100 involving commercial sexual activity where the victim is a minor;

(j) Criminal abuse in the first degree as described in KRS 508.100;

(k) Burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060;

(l) Burglary in the first degree accompanied by commission or attempted commission of kidnapping as prohibited by KRS 509.040; or

(m) Robbery in the first degree.

The court shall designate in its judgment if the victim suffered death or serious physical injury.

(2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole or imprisonment for life without benefit of probation or parole), or a Class A felony and receives a life sentence, or to death and his or her sentence is commuted to a life sentence shall not be released on probation or parole until he or she has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.

(3) (a) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony shall not be released on probation or parole until he has served at least eighty-five percent (85%) of the sentence imposed.

(b) A violent offender who has been convicted of a violation of KRS 507.040 where the victim of the offense was clearly identifiable as a peace officer or a firefighter and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least eighty-five percent (85%) of the sentence imposed.

(c) A violent offender who has been convicted of a violation of KRS 507.040 or 507.050 where the victim of the offense was a peace officer or a firefighter and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least fifty percent (50%) of the sentence imposed.

***(d) Any offender who has been convicted of a homicide or fetal homicide offense under KRS Chapter 507 or 507A in which the victim of the offense died as the result of an overdose of a Schedule I controlled substance and who is not otherwise subject to paragraph (a), (b), or (c) of this subsection shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed.***

* * * * *

Effective date June 24, 2015

**Section 20. KRS 625.050 is amended to read as follows:**

* * * * *

***(6) No petition may be filed to terminate the parental rights of a woman solely because of her use of a nonprescribed controlled substance during pregnancy if she enrolls in and maintains substantial compliance with both a substance abuse treatment or recovery program and a regimen of prenatal care as recommended by her health care practitioner throughout the remaining term of her pregnancy. Upon certified completion of the treatment or recovery program, or six (6) months after giving birth during which time substantial compliance with a substance abuse treatment or recovery program has occurred, whichever is earlier, any records maintained by a court or by the cabinet relating to a positive test for a nonprescribed controlled substance shall be sealed by the court and may not be used in any future criminal prosecution or future petition to terminate the woman's parental rights.***

**Section 21.** The Cabinet for Health and Family Services is encouraged to:

(1) Study the advantages and disadvantages of:

(a) Requiring the Medicaid program and private insurers to pay for one year postpartum medication-assisted treatment for women with heroin and other opioid addiction;

(b) Continuing medication-assisted treatment indefinitely and only discontinuing at the discretion of the patient, physician, and treatment team; and

(c) Establishing a mechanism to direct heroin and other opioid-addicted postpartum women into treatment facilities instead of the judicial system unless the patient is already incarcerated;

(2) Study the feasibility of and, if warranted, establish a physician-led committee composed of diverse regional, state, and national experts to assist in the development of evidence-based medical management standards to treat the disease of addiction in the Commonwealth and assist in developing overdose prevention and reaction protocols;

(3) Study and develop guidelines for the development and implementation of county and regional level wraparound teams for heroin and other opioid addiction that utilize physicians, social workers, and treatment and recovery professionals. The cabinet is encouraged to include the use of state qualified mental health facilities; treatment plans that utilize nonaddictive and nondivertible medication-assisted treatment to be continued indefinitely, and only discontinued at the discretion of the patient, physician, and treatment team; peer support services as necessary to overcome barriers to treatment; and cognitive and behavioral therapy;

(4) Collaborate with all medical schools and medical-related post-graduate training programs in Kentucky, including nursing schools, to include a minimum of ten hours of coursework on the disease of addiction for all medical professionals providing direct patient care, including but not limited to physicians, registered nurse practitioners, registered nurses, and physical therapists;

(5) Work with the licensing boards for medical and allied health professionals in Kentucky to increase continuing education units, at least to two units every two years, that focus on the disease of addiction; and

(6) Make any recommendations for legislation to the Interim Joint Committee on Health and Welfare by November 30, 2015.

**Section 6.** ***The Department of Criminal Justice Training shall offer voluntary regionalized in-service training on the topic of heroin for law enforcement officers employed by agencies***

*that utilize Department of Criminal Justice Training basic training for their recruits, including instructional material on the detection and interdiction of heroin trafficking, the dynamics of heroin abuse, and available treatment options for addicts. There shall be at least one course offered in each area development district by December 31, 2015, with the courses being designed to qualify as in-service training under KRS 15.404.*

Section 23. *The Legislative Research Commission is requested to appoint a Senate Bill 192 Implementation Oversight Committee consisting of three senators and three representatives to monitor the implementation of this Act during the 2015 legislative interim.*

Section 24. *The following shall be necessary government expenses up to $10,000,000 in fiscal year 2015-2016 and shall be paid from the General Fund Surplus Account, KRS 48.700, or the Budget Reserve Trust Fund Account, KRS 48.705:*
*(1) Substance abuse treatment as outlined in Section 3(5)(b)1. and 2. of this Act;*
*(2) Supplemental grant funding to community mental health centers as outlined in Section 3(5)(b)3. of this Act;*
*(3) Funding to address neonatal abstinence syndrome as outlined in Section 3(5)(b)4. of this Act;*
*(4) Supplemental funding for traditional KY-ASAP substance abuse programming as outlined in Section 3(5)(b)5. of this Act;*
*(5) Purchase of an FDA-approved extended-release treatment as outlined in Section 3(5)(b)6. of this Act;*
*(6) Supplemental funding to the Social Worker Program as outlined in Section 3(5)(b)7. of this Act; and*
*(7) Funding for the Prosecutors Advisory Council to enhance the use of rocket docket prosecutions in controlled substance cases as outlined in Section 3(5)(b)8. of this Act.*
*The secretary of the Justice and Public Safety Cabinet shall have the authority to determine the distribution of the aforementioned funds. If the secretary provides funding for the Department for Public Advocacy under this section, he or she shall enter into a Memorandum of Agreement with the Prosecutors Advisory Council to receive equal funding to that distributed to the Department for Public Advocacy.*

*Section 7. Whereas the illegal substances addressed in this Act pose a clear and present danger to the health and safety of Kentucky's citizens and no just cause exists for delay, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.*

## SENATE JOINT RESOLUTION 20 SEXUAL ASSAULT KITS

***A JOINT RESOLUTION** directing the Auditor of Public Accounts to report on the number of untested sexual assault examination kits in the possession of Kentucky law enforcement and prosecutorial agencies.*
*WHEREAS, the successful prosecution of sexual offenses and serial sexual offenders is vital to public safety; and*
*WHEREAS, the United States Department of Justice estimates that there are approximately 100,000 backlogged sexual assault examination kits awaiting testing throughout the country;*

***and***
***WHEREAS, preventing a backlog of untested sexual assault examination kits is essential to the administration of justice in the Commonwealth of Kentucky;***
***NOW, THEREFORE,***
***Be it resolved by the General Assembly of the Commonwealth of Kentucky:***

***Section 8. The Auditor of Public Accounts is directed to study the number of sexual assault examination kits collected pursuant to KRS 216B.400 that have not been sent to the Department of Kentucky State Police forensic laboratory for either serology or deoxyribonucleic acid testing and deliver a report to the Legislative Research Commission on that subject no later than November 1, 2015. Every Kentucky law enforcement and prosecutorial agency responsible for the collection, storage, and maintenance of sexual assault examination kits pursuant to KRS 216B.400 shall report to the Auditor of Public Accounts the number of all such kits in their custody that have not been sent to the Department of Kentucky State Police forensic laboratory for either serology or deoxyribonucleic acid testing and include in the report the date each kit was collected by September 1, 2015. No report generated pursuant to this section shall contain any personal or indentifying information of any victim.***

# HOUSE

## HOUSE BILL 8 INTERPERSONAL PROTECTIVE ORDERS

***NOTE: THIS TAKES EFFECT ON JANUARY 1, 2016***

***SECTION 1. KRS 403.715 IS REPEALED AND REENACTED TO READ AS FOLLOWS:***
***KRS 403.715 Interpretation of KRS 403.715 to 403.785***
***KRS 403.715 to 403.785 shall be interpreted to:***
***(1) Allow victims to obtain effective, short-term protection against further wrongful conduct in order that their lives may be as secure and as uninterrupted as possible;***
***(2) Expand the ability of law enforcement officers to effectively respond to further wrongful conduct so as to prevent future incidents and to provide assistance to the victims;***
***(3) Provide peace officers with the authority to immediately apprehend and charge for violation of an order of protection any person whom the officer has probable cause to believe has violated an order of protection and to provide courts with the authority to conduct contempt of court proceedings for these violations;***
***(4) Provide for the collection of data concerning incidents of domestic violence and abuse in order to develop a comprehensive analysis of the numbers and causes of such incidents; and***
***(5) Supplement and not repeal or supplant any duties, responsibilities, services, or penalties under KRS Chapters 209, 209A, and 620.***

**Section 2. KRS 403.720 is amended to read as follows:**
***KRS 403.720 Definitions for KRS 403.715 to 403.785***
As used in KRS 403.715 to 403.785:
(1) "Domestic violence and abuse" means physical injury, serious physical injury, ***stalking,***

sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple;

(2) "Family member" means a spouse, including a former spouse, a grandparent, ***a grandchild,*** a parent, a child, a stepchild, or any other person living in the same household as a child if the child is the alleged victim;

**(3)** ***"Foreign protective order" means any judgment, decree, or order of protection which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 that was issued on the basis of domestic violence and abuse;***

*(4)* "Global positioning monitoring system" means a system that electronically determines a person's location through ***a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;*** ~~[global positioning satellite technology, radio frequency technology, or a combination thereof and reports the location of an individual through the use of a transmitter or similar device worn by that individual and that transmits latitude and longitude data to a monitoring entity. The term does not include any system that contains or operates global positioning system technology, or any other similar technology, that is implanted or otherwise invades or violates the individual's body; and]~~

***(5)*** ~~[(4)]~~ "Member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.~~[.]~~

***(6) "Order of protection" means an emergency protective order or a domestic violence order and includes a foreign protective order; and***

***(7) "Substantial violation" means criminal conduct which involves actual or threatened harm to the person, family, or property of an individual protected by an order of protection.***

***SECTION 3. KRS 403.725 IS REPEALED AND REENACTED TO READ AS FOLLOWS:***

***KRS 403.725 Petition for order of protection -- Venue -- Verified contents -- Concurrent jurisdiction -- Protocols for access and supplemental jurisdiction -- Referral.***

***(1) A petition for an order of protection may be filed by:***

***(a) A victim of domestic violence and abuse; or***

***(b) An adult on behalf of a victim who is a minor otherwise qualifying for relief under this subsection.***

***(2) The petition may be filed in the victim's county of residence or a county where the victim has fled to escape domestic violence and abuse.***

***(3) The petition shall be verified and contain:***

***(a) The name, age, address, occupation, residence, and school or postsecondary institution of the petitioner;***

***(b) The name, age, address, occupation, residence, and school or postsecondary institution of the person or persons who have engaged in the alleged act or acts complained of in the petition;***

***(c) The facts and circumstances which constitute the basis for the petition;***

***(d) The date and place of the marriage of the parties, if applicable; and***

***(e) The names, ages, and addresses of the petitioner's minor children, if applicable.***

***(4) The petition shall be filed on forms prescribed by the Administrative Office of the Courts and provided to the person seeking relief by the circuit clerk or by another individual authorized by the court to provide and verify petitions in emergency situations, such as law enforcement officers and Commonwealth's or county attorneys.***

***(5) All petitions requested, completed, and signed by persons seeking protection under this chapter shall be accepted and filed with the court.***

***(6) (a) Jurisdiction over petitions filed under this chapter shall be concurrent between the District Court and Circuit Court and a petition may be filed by a petitioner in either court, except that a petition shall be filed in a family court if one has been established in the county where the petition is filed.***

***(b) The Court of Justice shall provide a protocol for twenty-four (24) hour access to orders of protection in each county with any protocol, whether statewide or local, being subject to Supreme Court review and approval of the initial protocol and any subsequent amendments. This protocol may allow for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.***

***(c) The Court of Justice may authorize by rule that petitions in a specific county be filed in accordance with a supplemental jurisdictional protocol adopted for that county. This protocol may provide for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.***

***(7) Any judge to whom a petition is referred under subsection (6) of this section shall have full authority to review and hear a petition and subsequently grant and enforce an order of protection.***

***(8) If the judge of a court in which there is a pending request for modification or enforcement of an existing order of protection is unavailable or unable to act within a reasonable time, the proceedings may be conducted by any judge of the county in accordance with court rules.***

***SECTION 4. KRS 403.730 IS REPEALED AND REENACTED TO READ AS FOLLOWS:***

***KRS 403.730 Immediate review of petition -- Summons to evidentiary hearing -- Ex parte emergency protective order.***

***(1) (a) The court shall review a petition for an order of protection immediately upon its filing. If the review indicates that domestic violence and abuse exists, the court shall summons the parties to an evidentiary hearing not more than fourteen (14) days in the future. If the review indicates that such a basis does not exist, the court may consider an amended petition or dismiss the petition without prejudice.***

***(b) Service of the summons and hearing order under this subsection shall be made upon the adverse party personally and may be made in the manner and by the persons authorized to serve subpoenas under Rule 45.03 of the Rules of Civil Procedure. A summons may be reissued if service has not been made on the adverse party by the fixed court date and time.***

***(2) (a) If the review under this section also indicates the presence of an immediate and present danger of domestic violence and abuse, the court shall, upon proper motion, issue ex parte an emergency protective order that:***

***1. Authorizes relief appropriate to the situation utilizing the alternatives set out in Section 6 of this Act, other than awarding temporary support or counseling;***

***2. Expires upon the conclusion of the evidentiary hearing required by this section unless extended or withdrawn by subsequent order of the court; and***

***3. Does not order or refer the parties to mediation unless requested by the petitioner,***

***and the court finds that:***
***a. The petitioner's request is voluntary and not the result of coercion; and***
***b. Mediation is a realistic and viable alternative to or adjunct to the issuance of an order sought by the petitioner.***
***(b) If an order is not issued under this subsection, the court shall note on the petition, for the record, any action taken or denied and the reason for it.***

***SECTION 5. KRS 403.735 IS REPEALED AND REENACTED TO READ AS FOLLOWS:***
***KRS 403.735 Hearing on petition for order of protection -- Criteria to assess appropriate relief and sanctions -- Continuance of hearing and emergency protective order.***
***(1) Prior to or at a hearing on a petition for an order of protection:***
***(a) The court may obtain the respondent's Kentucky criminal and protective order history and utilize that information to assess what relief and which sanctions may protect against danger to the petitioner or other person for whom protection is being sought, with the information so obtained being provided to the parties in accordance with the Rules of Civil Procedure; and***
***(b) If the petitioner or respondent is a minor, the court shall inquire whether the parties attend school in the same school system to assist the court in imposing conditions in the order that have the least disruption in the administration of education to the parties while providing appropriate protection to the petitioner.***
***(2) (a) If the adverse party is not present at the hearing ordered pursuant to Section 4 of this Act and has not been served, a previously issued emergency protective order shall remain in place, and the court shall direct the issuance of a new summons for a hearing set not more than fourteen (14) days in the future. If service has not been made on the adverse party before that hearing or a subsequent hearing, the emergency protective order shall remain in place, and the court shall continue the hearing and issue a new summons with a new date and time for the hearing to occur, which shall be within fourteen (14) days of the originally scheduled date for the continued hearing. The court shall repeat the process of continuing the hearing and reissuing a new summons until the adverse party is served in advance of the scheduled hearing. If service has not been made on the respondent at least seventy-two (72) hours prior to the scheduled hearing, the court may continue the hearing no more than fourteen (14) days in the future. In issuing the summons, the court shall simultaneously transmit a copy of the summons or notice of its issuance and provisions to the petitioner.***
***(b) The provisions of this section permitting the continuance of an emergency protective order shall be limited to six (6) months from the issuance of the emergency protective order. If the respondent has not been served within that period, the order shall be rescinded without prejudice. Prior to the expiration of the emergency protective order, the court shall provide notice to the petitioner stating that, if the petitioner does not file a new petition, the order shall be rescinded without prejudice.***

***SECTION 6. KRS 403.740 IS REPEALED AND REENACTED TO READ AS FOLLOWS:***
***KRS 403.740 Domestic violence order -- Restrictions -- Temporary child support -- Expiration and reissuance.***

***(1) Following a hearing ordered under KRS 403.730, if a court finds by a preponderance of the evidence that domestic violence and abuse has occurred and may again occur, the court may issue a domestic violence order:***
***(a) Restraining the adverse party from:***
***1. Committing further acts of domestic violence and abuse;***
***2. Any unauthorized contact or communication with the petitioner or other person specified by the court;***
***3. Approaching the petitioner or other person specified by the court within a distance specified in the order, not to exceed five hundred (500) feet;***
***4. Going to or within a specified distance of a specifically described residence, school, or place of employment or area where such a place is located; and***
***5. Disposing of or damaging any of the property of the parties;***
***(b) Directing or prohibiting any other actions that the court believes will be of assistance in eliminating future acts of domestic violence and abuse, except that the court shall not order the petitioner to take any affirmative action;***
***(c) Directing that either or both of the parties receive counseling services available in the community in domestic violence and abuse cases; and***
***(d) Additionally, if applicable:***
***1. Directing the adverse party to vacate a residence shared by the parties to the action;***
***2. Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.822, grant temporary custody; and***
***3. Utilizing the criteria set forth in KRS 403.211, 403.212, and 403.213, award temporary child support.***
***(2) In imposing a location restriction described in subsection (1)(a)4. of this section, the court shall:***
***(a) Afford the petitioner and respondent, if present, an opportunity to testify on the issue of the locations and areas from which the respondent should or should not be excluded;***
***(b) Only impose a location restriction where there is a specific, demonstrable danger to the petitioner or other person protected by the order;***
***(c) Specifically describe in the order the locations or areas prohibited to the respondent; and***
***(d) Consider structuring a restriction so as to allow the respondent transit through an area if the respondent does not interrupt his or her travel to harass, harm, or attempt to harass or harm the petitioner.***
***(3) When temporary child support is granted under this section, the court shall enter an order detailing how the child support is to be paid and collected. Child support ordered under this section may be enforced utilizing the same procedures as any other child support order.***
***(4) A domestic violence order shall be effective for a period of time fixed by the court, not to exceed three (3) years, and may be reissued upon expiration for subsequent periods of up to three (3) years each. The fact that an order has not been violated since its issuance may be considered by a court in hearing a request for a reissuance of the order.***

***SECTION 7. KRS 403.745 IS REPEALED AND REENACTED TO READ AS FOLLOWS:***
***KRS 403.745 Duration of emergency protective order and domestic violence order -- Prohibited costs and conditions -- Mutual orders of protection -- Amendment -- Expungement.***

***(1) An emergency protective order and a domestic violence order shall become effective and binding on the respondent when the respondent is given notice of the existence and terms of the order by a peace officer or the court or upon personal service of the order, whichever is earlier. A peace officer or court giving notice of an unserved order shall make all reasonable efforts to arrange for the order's personal service upon the respondent. Once effective, a peace officer or the court may enforce the order's terms and act immediately upon their violation.***

***(2) Costs, fees, or bond shall not be assessed against or required of a petitioner for any filing, hearing, service, or order authorized by or required to implement KRS 403.715 to 403.785.***

***(3) A court shall not require mediation, conciliation, or counseling prior to or as a condition of issuing an order of protection.***

***(4) Mutual orders of protection may be issued only if:***

***(a) Separate petitions have been filed by both parties; and***

***(b) The orders are written with sufficient specificity to allow any peace officer to identify which party has violated the order.***

***(5) Upon proper filing of a motion, either party may seek to amend an order of protection.***

***(6) Testimony offered by an adverse party in a hearing ordered pursuant to KRS 403.730 shall not be admissible in any criminal proceeding involving the same parties, except for purposes of impeachment.***

***(7) (a) The Court of Justice, county and Commonwealth's attorneys, law enforcement agencies, and victim services organizations may jointly operate a domestic violence intake center to assist persons who apply for relief under KRS 403.715 to 403.785.***

***(b) In cases where criminal conduct is alleged, a court may suggest that a petitioner voluntarily contact the county attorney. A court may not withhold or delay relief if the petitioner elects to not contact the county attorney.***

***(8) A person's right to apply for relief under this chapter shall not be affected by that person leaving his or her residence to avoid domestic violence and abuse.***

***(9) A court shall order the omission or deletion of the petitioner's address and the address of any minor children from any orders or documents to be made available to the public or to any person who engaged in the acts complained of in the petition.***

***(10) (a) If a petition under KRS 403.715 to 403.785 did not result in the issuance of a domestic violence order, the court in which the petition was heard may for good cause shown order the expungement of the records of the case if:***

***1. Six (6) months have elapsed since the case was dismissed; and***

***2. During the six (6) months preceding the expungement request, the respondent has not been bound by an order of protection issued for the protection of any person, including an order of protection as defined in KRS 456.010.***

***(b) As used in this subsection, "expungement" has the same meaning as in KRS 431.079.***

***SECTION 8. KRS 403.750 IS REPEALED AND REENACTED TO READ AS FOLLOWS:***

***KRS 403.750 Order of protection for family member or member of unmarried couple upon filing of petition or action under KRS Chapter 403.***

***(1) Any family member or any member of an unmarried couple may file for and receive protection under this chapter from domestic violence and abuse, notwithstanding the existence of or intent to file an action under this chapter by either party.***

***(2) (a) Any family member or member of an unmarried couple who files a petition for an order of protection based upon domestic violence or abuse shall make known to the court any custody or divorce actions involving both the petitioner and the respondent that are pending in any court.***

***(b) If the petitioner or respondent to an order of protection initiates an action under this chapter, the party initiating the action shall make known to the court the existence and status of any orders of protection, which shall remain effective and enforceable until superseded by order of the court in which the case is filed.***

***(3) If a family member or member of an unmarried couple files an action for dissolution of marriage, child custody, or visitation, the court hearing the case shall have jurisdiction to issue an order of protection upon the filing of a verified motion either at the commencement or during the pendency of the action.***

***SECTION 9. KRS 403.751 IS REPEALED AND REENACTED TO READ AS FOLLOWS:***

***KRS 403.751 Entry of summons or order of protection issued pursuant to KRS 403.715 to 403.785 into Law Information Network of Kentucky.***

***(1) All forms, affidavits, and orders of protection issued or filed pursuant to KRS 403.715 to 403.785 which require entry into the Law Information Network of Kentucky shall be entered on forms prescribed by the Administrative Office of the Courts after consultation with the Justice and Public Safety Cabinet. If the provisions of an order of protection are contained in an order which is narrative in nature, the prescribed form shall be used in addition to the narrative order.***

***(2) The circuit clerk, in cooperation with the court, shall cause a copy of each summons or order issued pursuant to KRS 403.715 to 403.785, or foreign protective order, fully completed and authenticated pursuant to KRS 403.715 to 403.785, to be forwarded, by the most expedient means reasonably available and within twenty-four (24) hours following its filing with the clerk, to the appropriate agency designated for entry of orders of protection into the Law Information Network of Kentucky and to the agency assigned service. Any order or court record superseding, modifying, or otherwise affecting the status of an earlier summons or order shall likewise be forwarded by the circuit clerk to the appropriate Law Information Network of Kentucky entering agency and to the agency assigned service, if service is required. The clerk and the court shall comply with all provisions and guidelines of the Law Information Network of Kentucky for entry of the records.***

***(3) Each agency designated for entry of summonses and orders issued pursuant to KRS 403.715 to 403.785, or foreign protective orders authenticated pursuant to this chapter, into the Law Information Network of Kentucky shall, consistent with the provisions and guidelines of the Law Information Network of Kentucky, enter the records immediately upon receipt of copies forwarded to the agency in accordance with subsection (2) of this section.***

***SECTION 10. KRS 403.7521 IS REPEALED AND REENACTED TO READ AS FOLLOWS:***

***KRS 403.521 Foreign protective orders -- Filing -- Affidavit certifying validity -- Uncertified orders.***

***(1) All foreign protective orders shall have the rebuttable presumption of validity. The validity of a foreign protective order shall only be determined by a court of competent jurisdiction. Until a foreign protective order is declared to be invalid by a court of competent jurisdiction, it shall be given full faith and credit by all peace officers and courts in the Commonwealth.***

***(2) All peace officers shall treat a foreign protective order as a legal document valid in Kentucky, and shall make arrests for a violation thereof in the same manner as for a violation of an order of protection issued in Kentucky.***

***(3) The fact that a foreign protective order has not been entered into the Law Information Network of Kentucky shall not be grounds for a peace officer not to enforce the provisions of the order unless it is readily apparent to the peace officer to whom the order is presented that the order has either expired according to a date shown on the order, or that the order's provisions clearly do not prohibit the conduct being complained of. Officers acting in good faith shall be immune from criminal and civil liability.***

***(4) If the order has expired or its provisions do not prohibit the conduct being complained of, the officer shall not make an arrest unless the provisions of a Kentucky statute have been violated, in which case the peace officer shall take the action required by Kentucky law.***

***(5) Civil proceedings and criminal proceedings for violation of a foreign protective order for the same violation of the protective order shall be mutually exclusive. Once either proceeding has been initiated, the other shall not be undertaken, regardless of the outcome of the original proceeding.***

***SECTION 11. KRS 403.7524 IS REPEALED AND REENACTED TO READ AS FOLLOWS:***

***KRS 403.7524 Statement to assist out-of-state court in determining whether order issued under KRS 403.715 to 403.785 is entitled to full faith and credit.***

***(1) In order to assist a court of another state in determining whether an order issued under KRS 403.715 to 403.785 is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265:***

***(a) All domestic violence orders shall include a statement certifying that the issuing court had jurisdiction over the parties and the matter, and that reasonable notice and opportunity to be heard has been given to the person against whom the order is sought sufficient to protect that person's right to due process; and***

***(b) All emergency protective orders shall include a statement certifying that notice and opportunity to be heard has been provided within the time required by state law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.***

***(2) The Administrative Office of the Courts shall prescribe the form to be used for the purposes of this section.***

***SECTION 12. KRS 403.7527 IS REPEALED AND REENACTED TO READ AS FOLLOWS:***

***KRS 403.7527 Filing of foreign protective order and affidavit -- Certification by issuing court official -- Entry into Law Information Network of Kentucky.***

***(1) A copy of a foreign protective order may be filed in the office of the clerk of any court of competent jurisdiction of this state. A foreign protective order so filed shall have the same effect and shall be enforced in the same manner as an order of protection issued by a court***

***of this state.***

***(2) (a) At the time of the filing of the foreign protective order, the person filing the order shall file with the clerk of the court an affidavit on a form prescribed and provided by the Administrative Office of the Courts. The affidavit shall set forth the name, city, county, and state or other jurisdiction of the issuing court. The person shall certify in the affidavit the validity and status of the foreign protective order, and attest to the person's belief that the order has not been amended, rescinded, or superseded by any orders from a court of competent jurisdiction. All foreign protective orders presented with a completed and signed affidavit shall be accepted and filed.***

***(b) The affidavit signed by the applicant shall have space where the reviewing judge shall place information necessary to allow the order's entry into the Law Information Network of Kentucky in the same manner as a Kentucky order.***

***(3) (a) If the person seeking to file the order presents a copy of the foreign order which is current by the terms of the order and has been certified by the clerk or other authorized officer of the court which issued it, the circuit clerk shall present it to the District Judge or Circuit Judge, who shall read the order and enter on the affidavit the information necessary to allow the order's entry into the Law Information Network of Kentucky. The order shall not be subject to further verification and shall be accepted as authentic, current, and subject to full faith and credit.***

***(b) If the order presented is current by the terms of the order but is not certified in the manner specified in paragraph (a) of this subsection, the circuit clerk shall present the order and the affidavit to the District Judge or Circuit Judge, who shall read the order and enter on the affidavit the information necessary to allow the order's entry into the Law Information Network of Kentucky. The order shall be subject to full faith and credit in the same manner as a Kentucky order of protection, but shall be subject to verification by the circuit clerk. The order shall be valid for a period of fourteen (14) days and may be renewed once for a period of fourteen (14) days if the circuit clerk has not received a certified copy of the order from the issuing jurisdiction. The clerk shall treat the foreign protective order in the same manner as an order of protection issued pursuant to KRS 403.740, except that no service on the adverse party shall be required pursuant to 18 U.S.C. sec. 2265.***

***(c) Upon the filing of an uncertified protective order, the circuit clerk shall, within two (2) business days, contact the issuing court to request a certified copy of the order. If the certified copy of the order is received by the circuit clerk within the initial fourteen (14) day period, the clerk shall cause the information that certification has been received to be entered into the Law Information Network of Kentucky and shall notify the applicant for the order of the fact of its certification. A facsimile copy of a certified foreign protective order shall be grounds for the issuance of an order of protection.***

***(d) If the clerk has not received a certified copy of the foreign protective order within ten (10) days, the clerk shall notify the court and the applicant that the order has not been received. The notice to the applicant, on a form prepared by the Administrative Office of the Courts, shall state that the foreign protective order will be extended for another fourteen (14) days, but will be dismissed at the expiration of that time. If the clerk informs the judge in writing that the certified foreign protective order has been requested but has not yet been received, the judge shall extend the foreign protective order for a period of fourteen (14) days. If certification of the foreign protective order is not received within twenty-eight (28) days, the foreign protective order shall expire and shall not be reissued. If the applicant meets the qualifications for the issuance of a Kentucky domestic violence order, the court may, upon proper application and showing of evidence, issue a Kentucky order in***

***accordance with this chapter.***
***(4) The right of a person filing a foreign protective order to bring an action to enforce the order instead of proceeding under this chapter remains unimpaired.***

***SECTION 13. KRS 403.7529 IS REPEALED AND REENACTED TO READ AS FOLLOWS:***
***KRS 403.7529 Authentication of foreign protective order.***
***(1) Upon ex parte review of the foreign protective order and the affidavit filed pursuant to KRS 403.7527, and after determining the order is entitled to full faith and credit in this Commonwealth pursuant to 18 U.S.C. sec. 2265, the court shall declare the order to be authenticated and record the finding on the affidavit.***
***(2) If the court declares the order to be authenticated, the court shall:***
***(a) Direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with, if applicable; and***
***(b) Order its enforcement in any county of the Commonwealth in the same manner as an domestic violence order of this state issued pursuant to KRS 403.740.***
***(3) The clerk shall notify the person who filed the foreign protective order of the decision of the court and provide the person a certified copy of the affidavit declaring the authentication of the order.***

***SECTION 14. KRS 403.7531 IS REPEALED AND REENACTED TO READ AS FOLLOWS:***
***KRS 403.7531 Clearing of foreign protective orders from Law Information Network of Kentucky.***
***(1) A foreign protective order which has been entered into the Law Information Network of Kentucky shall be immediately cleared as an active record from the computer system when:***
***(a) The order expires according to its terms;***
***(b) A Kentucky court notifies the Law Information Network of Kentucky that a foreign protective order has been dismissed, either by court order or entry of notification by a circuit clerk; or***
***(c) A circuit clerk notifies the Law Information Network of Kentucky that a foreign protective order tendered to the clerk has not been authenticated in the time period specified in KRS 403.7527.***
***(2) For validation purposes, the Law Information Network of Kentucky shall provide the circuit court clerk with a printout of foreign protective orders. The clerk shall validate each order annually by contacting the original issuing court or jurisdiction. If the clerk has not received information from the foreign jurisdiction within thirty-one (31) days, the clerk shall cause those orders to be cleared from the Law Information Network of Kentucky.***

***SECTION 15. KRS 403.7535 IS REPEALED AND REENACTED TO READ AS FOLLOWS:***

***KRS 403.7535 Duty to notify court of change in foreign protective order.***

***(1) A person who has filed a foreign protective order in a court in Kentucky is under a continuing obligation to inform the court of any expiration, vacation, modification, or other change in the order which the person filing the order has received from the issuing foreign court.***

***(2) A person who has filed a foreign protective order in a court in Kentucky shall, within two (2) working days of the occurrence of any event specified in subsection (1) of this section, notify the clerk of the court in which the foreign protective order was filed of the fact of the changed order and present the clerk with a copy of the order for authentication as provided in this chapter. The clerk shall immediately notify the Law Information Network of Kentucky entering agency of the modification.***

***(3) No court in Kentucky and no peace officer in Kentucky shall be expected to enforce a provision of a foreign protective order which has been the subject of any action specified in subsection (1) of this section, unless proper notice has been given in accordance with this section.***

***(4) Intentional failure of a person who has filed a foreign protective order to make the notifications required by this section in the manner required by this section shall constitute contempt of court and may be grounds for an appropriate civil action brought by any person damaged by the intentional act of omission by the person failing to act.***

***SECTION 16. KRS 403.761 IS REPEALED AND REENACTED TO READ AS FOLLOWS:***

***KRS 403.761 Amendment of domestic violence order to require participation in global positioning monitoring system -- Cost to be paid by respondent and system operator -- Shortening or vacating of order -- Penalty for violation.***

***(1) Upon a petitioner's request and after an evidentiary hearing, a court may amend a domestic violence order to require a respondent to participate in a global positioning monitoring system if:***

***(a) The respondent has committed a substantial violation of a previously entered domestic violence order;***

***(b) The court has reviewed an updated history of the respondent's Kentucky criminal and protective order history; and***

***(c) The court makes a factual determination that the use of a global positioning monitoring system would increase the petitioner's safety.***

***(2) An order requiring participation in a global positioning monitoring system shall:***

***(a) Require the respondent to pay the cost of participation up to the respondent's ability to pay, with the system operator bearing any uncovered costs for indigent respondents;***

***(b) State with specificity the locations or areas where the respondent is prohibited from being located or persons with whom the respondent shall have no contact;***

***(c) Include the date that the order expires, which shall be no longer than the expiration date of the domestic violence order, although participation may be extended if the underlying order is extended;***

***(d) Require the entity that operates the monitoring system to immediately notify the petitioner, the local law enforcement agency named in the order, and the court if a respondent violates the order; and***

***(e) Include any other information as the court deems appropriate.***

*(3) The Administrative Office of the Courts shall prepare a publicly available informational pamphlet containing information on the method of applying for, hearing, amending, and terminating an order requiring participation in a global positioning monitoring system.*

*(4) (a) The Supreme Court may establish by rule a sliding scale of payment responsibility for indigent defendants for use in establishing required payments under subsection (2) of this section.*

*(b) A person, county, or other organization may voluntarily agree to pay all or a portion of a respondent's monitoring costs specified in this section.*

*(5) An order requiring participation in a global positioning monitoring system may be shortened or vacated by the court either:*

*(a) Upon request of the petitioner; or*

*(b) Upon request of the respondent after an evidentiary hearing, if the respondent has not violated the order and:*

*1. Three (3) months have elapsed since the entry of the order; and*

*2. No previous request has been made by the respondent in the previous six (6) months.*

*(6) A respondent who fails to wear, removes, tampers with, or destroys a global positioning monitoring system device in contravention of an order entered under this section shall be guilty of a Class D felony.*

***SECTION 17. KRS 403.763 IS REPEALED AND REENACTED TO READ AS FOLLOWS:***

*KRS 403.763 Violation of order of protection constitutes contempt of court and criminal offense.*

*(1) Violation of the terms or conditions of an order of protection after the person has been served or given notice of the order shall constitute contempt of court and a criminal offense under this section. Once a criminal or contempt proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding.*

*(2) (a) Court proceedings for contempt of court for violation of an order of protection shall be held in the county where the order was issued or filed.*

*(b) Court proceedings for a criminal violation of an order of protection shall follow the rules of venue applicable to criminal cases generally.*

*(3) Nothing in this section shall preclude the Commonwealth from prosecuting and convicting the respondent of criminal offenses other than violation of an order of protection.*

*(4) (a) A person is guilty of a violation of an order of protection when he or she intentionally violates the provisions of an order of protection after the person has been served or given notice of the order.*

*(b) Violation of an order of protection is a Class A misdemeanor.*

***SECTION 18. KRS 403.785 IS REPEALED AND REENACTED TO READ AS FOLLOWS:***

*KRS 403.785 Duties of law enforcement officers and agencies.*

*(1) A court issuing an order of protection shall direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with.*

*(2) When a law enforcement officer has reason to suspect that a person has been the victim of domestic violence and abuse, the officer shall use all reasonable means to provide assistance to the victim, including but not limited to:*

***(a) Remaining at the location of the call for assistance so long as the officer reasonably suspects there is danger to the physical safety of individuals there without the presence of a law enforcement officer;***
***(b) Assisting the victim in obtaining medical treatment, including transporting the victim to the nearest medical facility capable of providing the necessary treatment; and***
***(c) Advising the victim immediately of the rights available to them, including the provisions of this chapter.***
***(3) Orders of protection shall be enforced in any county of the Commonwealth.***
***(4) Officers acting in good faith under this section shall be immune from criminal and civil liability.***
***(5) Each law enforcement agency shall report all incidents of actual or suspected domestic violence and abuse within their knowledge to the Cabinet for Health and Family Services, Department for Community Based Services, within forty-eight (48) hours of learning of the incident or of the suspected incident.***

***SECTION 19. KRS CHAPTER 456 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:***
***KRS 456.010 Definitions for chapter***
***As used in this chapter:***
***(1) "Dating relationship" means a relationship between individuals who have or have had a relationship of a romantic or intimate nature. It does not include a casual acquaintanceship or ordinary fraternization in a business or social context. The following factors may be considered in addition to any other relevant factors in determining whether the relationship is or was of a romantic or intimate nature:***
***(a) Declarations of romantic interest;***
***(b) The relationship was characterized by the expectation of affection;***
***(c) Attendance at social outings together as a couple;***
***(d) The frequency and type of interaction between the persons, including whether the persons have been involved together over time and on a continuous basis during the course of the relationship;***
***(e) The length and recency of the relationship; and***
***(f) Other indications of a substantial connection that would lead a reasonable person to understand that a dating relationship existed;***
***(2) "Dating violence and abuse" means physical injury, serious physical injury, stalking, sexual assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault occurring between persons who are or have been in a dating relationship;***
***(3) "Foreign protective order" means any judgment, decree, or order of protection which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 which was not issued on the basis of domestic violence and abuse;***
***(4) "Global positioning monitoring system" means a system that electronically determines a person's location through a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;***
***(5) "Order of protection" means any interpersonal protective order including those issued on a temporary basis and includes a foreign protective order;***
***(6) "Sexual assault" refers to conduct prohibited as any degree of rape, sodomy, or sexual abuse under KRS Chapter 510 or incest under KRS 530.020;***

***(7) "Stalking" refers to conduct prohibited as stalking under KRS 508.140 or 508.150; and***
***(8) "Substantial violation" means criminal conduct which involves actual or threatened harm to the person, family, or property of an individual protected by an order of protection.***

***SECTION 20. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:***
***KRS 456.020 Interpretation of chapter.***
***(1) This chapter shall be interpreted to:***
***(a) Allow victims to obtain effective, short-term protection against further wrongful conduct in order that their lives may be as secure and as uninterrupted as possible;***
***(b) Expand the ability of law enforcement officers to effectively respond to further wrongful conduct so as to prevent future incidents and to provide assistance to the victims;***
***(c) Provide peace officers with the authority to immediately apprehend and charge for violation of an order of protection any person whom the officer has probable cause to believe has violated an order of protection and to provide courts with the authority to conduct contempt of court proceedings for these violations;***
***(d) Provide for the collection of data concerning incidents of dating violence and abuse, sexual assault, and stalking in order to develop a comprehensive analysis of the numbers and causes of such incidents; and***
***(e) Supplement and not repeal or supplant any duties, responsibilities, services, or penalties under KRS Chapters 209, 209A, and 620.***
***(2) Nothing in this chapter is intended to trigger the application of the provisions of 18 U.S.C sec. 922(g) as to an interpersonal protective order issued on the basis of the existence of a current or previous dating relationship.***

***SECTION 21. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:***
***KRS 456.030 Petition for interpersonal protective order***
***(1) A petition for an interpersonal protection order may be filed by:***
***(a) A victim of dating violence and abuse;***
***(b) A victim of stalking;***
***(c) A victim of sexual assault; or***
***(d) An adult on behalf of a victim who is a minor otherwise qualifying for relief under this subsection.***
***(2) The petition may be filed in the victim's county of residence or a county where the victim has fled to escape dating violence and abuse, stalking, or sexual assault.***
***(3) The petition shall be verified and contain:***
***(a) The name, age, address, occupation, residence, and school or postsecondary institution of the petitioner;***
***(b) The name, age, address, occupation, residence, and school or postsecondary institution of the person or persons who have engaged in the alleged act or acts complained of in the petition;***
***(c) The facts and circumstances which constitute the basis for the petition; and***
***(d) The names, ages, and addresses of the petitioner's minor children, if applicable.***

***(4) The petition shall be filed on forms prescribed by the Administrative Office of the Courts and provided to the person seeking relief by the circuit clerk or by another individual authorized by the court to provide and verify petitions in emergency situations, such as law enforcement officers and Commonwealth's or county attorneys.***

***(5) All petitions requested, completed, and signed by persons seeking protection under this chapter shall be accepted and filed with the court.***

***(6) (a) Jurisdiction over petitions filed under this chapter shall be concurrent between the District Court and Circuit Court.***

***(b) The Court of Justice shall provide a protocol for twenty-four (24) hour access to interpersonal protective orders in each county with any protocol, whether statewide or local, being subject to Supreme Court review and approval of the initial protocol and any subsequent amendments. This protocol may allow for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.***

***(c) The Court of Justice may authorize by rule that petitions in a specific county be filed in accordance with a supplemental jurisdictional protocol adopted for that county. This protocol may provide for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.***

***(7) Any judge to whom a petition is referred under subsection (6) of this section shall have full authority to review and hear a petition and subsequently grant and enforce an interpersonal protective order.***

***(8) If the judge of a court in which there is a pending request for modification or enforcement of an existing order of protection is unavailable or unable to act within a reasonable time, the proceedings may be conducted by any judge of the county in accordance with court rules.***

***SECTION 22. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:***

***KRS 456.040 Review of petition for interpersonal protective order – Temporary interpersonal protective order.***

***(1) (a) The court shall review a petition for an interpersonal protective order immediately upon its filing. If the review indicates that dating violence and abuse, stalking, or sexual assault exists, the court shall summons the parties to an evidentiary hearing not more than fourteen (14) days in the future. If the review indicates that such a basis does not exist, the court may consider an amended petition or dismiss the petition without prejudice.***

***(b) Service of the summons and hearing order under this subsection shall be made upon the adverse party personally and may be made in the manner and by the persons authorized to serve subpoenas under Rule 45.03 of the Rules of Civil Procedure. A summons may be reissued if service has not been made on the adverse party by the fixed court date and time.***

***(2) (a) If the review under this section also indicates the presence of an immediate and present danger of dating violence and abuse, sexual assault, or stalking, the court shall, upon proper motion, issue ex parte a temporary interpersonal protective order that:***

***1. Authorizes relief appropriate to the situation utilizing the alternatives set out in KRS 456.060;***

***2. Expires upon the conclusion of the evidentiary hearing required by this section unless extended or withdrawn by subsequent order of the court; and***

***3. Does not order or refer the parties to mediation unless requested by the petitioner, and the court finds that:***

***a. The petitioner's request is voluntary and not the result of coercion; and***

***b. Mediation is a realistic and viable alternative to or adjunct to the issuance of an order sought by the petitioner.***

***(b) If an order is not issued under this subsection, the court shall note on the petition, for the record, any action taken or denied and the reason for it.***

***SECTION 23. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:***

***KRS 456.050 Hearing on petition for interpersonal protective order***

***(1) Prior to or at a hearing on a petition for an interpersonal protective order:***

***(a) The court may obtain the respondent's Kentucky criminal and protective order history and utilize that information to assess what relief and which sanctions may protect against danger to the petitioner or other person for whom protection is being sought, with the information so obtained being provided to the parties in accordance with the Rules of Civil Procedure; and***

***(b) If the petitioner or respondent is a minor, the court shall inquire whether the parties attend school in the same school system to assist the court in imposing conditions in the order that have the least disruption in the administration of education to the parties while providing appropriate protection to the petitioner.***

***(2)(a) If the adverse party is not present at the hearing ordered pursuant to KRS 456.040 has not been served, a previously issued temporary interpersonal protective order shall remain in place, and the court shall direct the issuance of a new summons for a hearing set not more than fourteen (14) days in the future. If service has not been made on the adverse party before that hearing or a subsequent hearing, the temporary interpersonal protective order shall remain in place, and the court shall continue the hearing and issue a new summons with a new date and time for the hearing to occur, which shall be within fourteen (14) days of the originally scheduled date for the continued hearing. The court shall repeat the process of continuing the hearing and reissuing a new summons until the adverse party is served in advance of the scheduled hearing. If service has not been made on the respondent at least seventy-two (72) hours prior to the scheduled hearing, the court may continue the hearing no more than fourteen (14) days in the future. In issuing the summons, the court shall simultaneously transmit a copy of the summons or notice of its issuance and provisions to the petitioner.***

***(b) The provisions of this section permitting the continuance of an interpersonal protective order shall be limited to six (6) months from the issuance of the temporary interpersonal protective order. If the respondent has not been served within that period, the order shall be rescinded without prejudice. Prior to the expiration of the temporary interpersonal protective order, the court shall provide notice to the petitioner stating that, if the petitioner does not file a new petition, the order shall be rescinded without prejudice.***

***SECTION 24. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:***

***KRS 456.060 Ruling on petition for interpersonal protective order -- Duration of order.***

***(1) Following a hearing ordered under KRS 456.040, if a court finds by a preponderance of the evidence that dating violence and abuse, sexual assault, or stalking has occurred and may again occur, the court may issue an interpersonal protective order:***

***(a) Restraining the adverse party from:***

***1. Committing further acts of dating violence and abuse, stalking, or sexual assault;***

***2. Any unauthorized contact or communication with the petitioner or other person specified by the court;***
***3. Approaching the petitioner or other person specified by the court within a distance specified in the order, not to exceed five hundred (500) feet;***
***4. Going to or within a specified distance of a specifically described residence, school, or place of employment or area where such a place is located; and***
***5. Disposing of or damaging any of the property of the parties;***
***(b) Directing or prohibiting any other actions that the court believes will be of assistance in eliminating future acts of dating violence and abuse, stalking, or sexual assault, except that the court shall not order the petitioner to take any affirmative action; and***
***(c) Directing that either or both of the parties receive counseling services available in the community in dating violence and abuse cases.***
***(2) In imposing a location restriction described in subsection (1)(a)4. of this section, the court shall:***
***(a) Afford the petitioner and respondent, if present, an opportunity to testify on the issue of the locations and areas from which the respondent should or should not be excluded;***
***(b) Only impose a location restriction where there is a specific, demonstrable danger to the petitioner or other person protected by the order;***
***(c) Specifically describe in the order the locations or areas prohibited to the respondent; and***
***(d) Consider structuring a restriction so as to allow the respondent transit through an area if the respondent does not interrupt his or her travel to harass, harm, or attempt to harass or harm the petitioner.***
***(3) An interpersonal protective order shall be effective for a period of time fixed by the court, not to exceed three (3) years, and may be reissued upon expiration for subsequent periods of up to three (3) years each. The fact that an order has not been violated since its issuance may be considered by a court in hearing a request for a reissuance of the order.***

***SECTION 25. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:***
***KRS 456.070 When protective order becomes effective and binding on respondent -- Mutual protective orders -- Petition hearing testimony later admissible only for impeachment purposes -- Interpersonal protective order intake center***
***(1) A temporary or ordinary interpersonal protective order shall become effective and binding on the respondent when the respondent is given notice of the existence and terms of the order by a peace officer or the court or upon personal service of the order, whichever is earlier. A peace officer or court giving notice of an unserved order shall make all reasonable efforts to arrange for the order's personal service upon the respondent. Once effective, a peace officer or the court may enforce the order's terms and act immediately upon their violation.***
***(2) Costs, fees, or bond shall not be assessed against or required of a petitioner for any filing, hearing, service, or order authorized by or required to implement this chapter.***
***(3) A court shall not require mediation, conciliation, or counseling prior to or as a condition of issuing an interpersonal protective order.***
***(4) Mutual protective orders may be issued only if:***
***(a) Separate petitions have been filed by both parties; and***
***(b) The orders are written with sufficient specificity to allow any peace officer to identify which party has violated the order.***

*(5) Upon proper filing of a motion, either party may seek to amend an interpersonal protective order.*
*(6) Testimony offered by an adverse party in a hearing ordered pursuant to KRS 456.040 shall not be admissible in any criminal proceeding involving the same parties except for purposes of impeachment.*
*(7)(a) The Court of Justice, county and Commonwealth's attorneys, law enforcement agencies, and victim services organizations may jointly operate an interpersonal protective order intake center to assist persons who apply for relief under this chapter.*
*(b) In cases where criminal conduct is alleged, a court may suggest that a petitioner voluntarily contact the county attorney. A court may not withhold or delay relief if the petitioner elects to not contact the county attorney.*
*(8) A person's right to apply for relief under this chapter shall not be affected by that person leaving his or her residence to avoid dating violence and abuse, sexual assault, or stalking.*
*(9) A court shall order the omission or deletion of the petitioner's address and the address of any minor children from any orders or documents to be made available to the public or to any person who engaged in the acts complained of in the petition.*
*(10) (a) If a petition under this chapter did not result in the issuance of a non-temporary interpersonal order, the court in which the petition was heard may for good cause shown order the expungement of the records of the case if:*
*1. Six (6) months have elapsed since the case was dismissed; and*
*2. During the six (6) months preceding the expungement request, the respondent has not been bound by an order of protection issued for the protection of any person including an order of protection as defined in Section 2 of this Act.*
*(b) As used in this subsection, "expungement" has the same meaning as in KRS 431.079.*

***SECTION 26. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:***
*KRS 456.080 Disclosure of interpersonal protective orders upon filing KRS Chapter 403 action.*
*If the petitioner or respondent to an interpersonal protective order initiates an action under KRS Chapter 403, the party initiating the action shall make known to the court the existence and status of any interpersonal protective orders, which shall remain effective and enforceable until superseded by order of the court in which the KRS Chapter 403 case is filed.*

***SECTION 27. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:***
*456.090 Law enforcement to assist protective order petitioner and victim of dating violence and abuse, sexual assault, or stalking – Statewide enforcement -- Civil and criminal immunity*
*(1) A court issuing an interpersonal order shall direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with.*
*(2) When a law enforcement officer has reason to suspect that a person has been the victim of dating violence and abuse, sexual assault, or stalking, the officer shall use all reasonable means to provide assistance to the victim, including but not limited to:*
*(a) Remaining at the location of the call for assistance so long as the officer reasonably*

***suspects there is danger to the physical safety of individuals there without the presence of a law enforcement officer;***
***(b) Assisting the victim in obtaining medical treatment, including transporting the victim to the nearest medical facility capable of providing the necessary treatment; and***
***(c) Advising the victim immediately of the rights available to them, including the provisions of this chapter.***
***(3) Orders of protection shall be enforced in any county of the Commonwealth.***
***(4) Officers acting in good faith under this chapter shall be immune from criminal and civil liability.***

***SECTION 28. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:***
***KRS 456.100 Amendment of interpersonal protective order to require participation in global positioning monitoring system***
***(1) Upon a petitioner's request and after an evidentiary hearing, a court may amend an interpersonal protection order to require a respondent to participate in a global positioning monitoring system if:***
***(a) The respondent has committed a substantial violation of a previously entered interpersonal protection order;***
***(b) The court has reviewed an updated history of the respondent's Kentucky criminal and protective order history; and***
***(c) The court makes a factual determination that the use of a global positioning monitoring system would increase the petitioner's safety.***
***(2) An order requiring participation in a global positioning monitoring system shall:***
***(a) Require the respondent to pay the cost of participation up to the respondent's ability to pay, with the system operator bearing any uncovered costs for indigent respondents;***
***(b) State with specificity the locations or areas where the respondent is prohibited from being located or persons with whom the respondent shall have no contact;***
***(c) Include the date that the order expires, which shall be no longer than the expiration date of the underlying interpersonal protection order, although participation may be extended if the underlying order is extended;***
***(d) Require the entity that operates the monitoring system to immediately notify the petitioner, the local law enforcement agency named in the order, and the court if a respondent violates the order; and***
***(e) Include any other information as the court deems appropriate.***
***(3) The Administrative Office of the Courts shall prepare a publicly available informational pamphlet containing information on the method of applying for, hearing, amending, and terminating an order requiring participation in a global positioning monitoring system.***
***(4) (a) The Supreme Court may establish by rule a sliding scale of payment responsibility for indigent defendants for use in establishing required payments under subsection (2) of this section.***
***(b) A person, county, or other organization may voluntarily agree to pay all or a portion of a respondent's monitoring costs specified in this section.***
***(5) An order requiring participation in a global positioning monitoring system may be shortened or vacated by the court either:***
***(a) Upon request of the petitioner; or***
***(b) Upon request of the respondent after an evidentiary hearing, if the respondent has***

***not violated the order and:***
***1. Three (3) months have elapsed since the entry of the order; and***
***2. No previous request has been made by the respondent in the previous six (6) months.***
***(6) A respondent who fails to wear, removes, tampers with, or destroys a global positioning monitoring system device in contravention of an order entered under this section shall be guilty of a Class D felony.***

***SECTION 29. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:***
***KRS 456.110 Entry of forms, affidavits, and orders of protection into Law Information Network of Kentucky.***
***(1) All forms, affidavits, and orders of protection issued or filed pursuant to this chapter which require entry into the Law Information Network of Kentucky shall be entered on forms prescribed by the Administrative Office of the Courts after consultation with the Justice and Public Safety Cabinet. If the provisions of an interpersonal protective order are contained in an order which is narrative in nature, the prescribed form shall be used in addition to the narrative order.***
***(2) The circuit clerk, in cooperation with the court, shall cause a copy of each summons or order issued pursuant to this chapter, or foreign protective order, fully completed and authenticated pursuant to this chapter, to be forwarded, by the most expedient means reasonably available and within twenty-four (24) hours following its filing with the clerk, to the appropriate agency designated for entry of interpersonal protective order records into the Law Information Network of Kentucky and to the agency assigned service. Any order or court record superseding, modifying, or otherwise affecting the status of an earlier summons or order shall likewise be forwarded by the circuit clerk to the appropriate Law Information Network of Kentucky entering agency and to the agency assigned service, if service is required. The clerk and the court shall comply with all provisions and guidelines of the Law Information Network of Kentucky for entry of the records.***
***(3) Each agency designated for entry of summonses and orders issued pursuant to this chapter, or foreign protective orders authenticated pursuant to this chapter, into the Law Information Network of Kentucky shall, consistent with the provisions and guidelines of the Law Information Network of Kentucky, enter the records immediately upon receipt of copies forwarded to the agency in accordance with subsection (2) of this section.***

***SECTION 30. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:***
***456.120 Foreign protective orders.***
***(1) All foreign protective orders shall have the rebuttable presumption of validity. The validity of a foreign protective order shall only be determined by a court of competent jurisdiction. Until a foreign protective order is declared to be invalid by a court of competent jurisdiction, it shall be given full faith and credit by all peace officers and courts in the Commonwealth.***
***(2) All peace officers shall treat a foreign protective order as a legal document valid in Kentucky, and shall make arrests for a violation thereof in the same manner as for a violation of an order of protection issued in Kentucky.***
***(3) The fact that a foreign protective order has not been entered into the Law Information Network of Kentucky shall not be grounds for a peace officer not to enforce the***

***provisions of the order unless it is readily apparent to the peace officer to whom the order is presented that the order has either expired according to a date shown on the order, or that the order's provisions clearly do not prohibit the conduct being complained of. Officers acting in good faith shall be immune from criminal and civil liability.***

***(4) If the order has expired or its provisions do not prohibit the conduct being complained of, the officer shall not make an arrest unless the provisions of a Kentucky statute have been violated, in which case the peace officer shall take the action required by Kentucky law.***

***(5) Civil proceedings and criminal proceedings for violation of a foreign protective order for the same violation of the protective order shall be mutually exclusive. Once either proceeding has been initiated, the other shall not be undertaken, regardless of the outcome of the original proceeding.***

***SECTION 31. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:***

***456.130 Information required in interpersonal protective order to assist in full faith and credit determination***

***(1) In order to assist a court of another state in determining whether an order issued under this chapter is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265:***

***(a) All interpersonal protective orders shall include a statement certifying that the issuing court had jurisdiction over the parties and the matter, and that reasonable notice and opportunity to be heard has been given to the person against whom the order is sought sufficient to protect that person's right to due process; and***

***(b) All temporary interpersonal protective orders shall include a statement certifying that notice and opportunity to be heard has been provided within the time required by state law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.***

***(2) The Administrative Office of the Courts shall prescribe the form to be used for the purposes of this section.***

***SECTION 32. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:***

***456.140 Filing copy of foreign protective order -- Effect -- Required affidavit -- Certification by issuing court -- Uncertified order***

***(1) A copy of a foreign protective order may be filed in the office of the clerk of any court of competent jurisdiction of this state. A foreign protective order so filed shall have the same effect and shall be enforced in the same manner as an interpersonal protective order issued by a court of this state.***

***(2) (a) At the time of the filing of the foreign protective order, the person filing the order shall file with the clerk of the court an affidavit on a form prescribed and provided by the Administrative Office of the Courts. The affidavit shall set forth the name, city, county, and state or other jurisdiction of the issuing court. The person shall certify in the affidavit the validity and status of the foreign protective order, and attest to the person's belief that the order has not been amended, rescinded, or superseded by any orders from a court of competent jurisdiction. All foreign protective orders presented with a completed and signed affidavit shall be accepted and filed.***

***(b) The affidavit signed by the applicant shall have space where the reviewing judge shall place information necessary to allow the order's entry into the Law Information***

***Network of Kentucky in the same manner as a Kentucky order.***

***(3) (a) If the person seeking to file the order presents a copy of the foreign order which is current by the terms of the order and has been certified by the clerk or other authorized officer of the court which issued it, the circuit clerk shall present it to the District Judge or Circuit Judge, who shall read the order and enter on the affidavit the information necessary to allow the order's entry into the Law Information Network of Kentucky. The order shall not be subject to further verification and shall be accepted as authentic, current, and subject to full faith and credit.***

***(b) If the order presented is current by the terms of the order but is not certified in the manner specified in paragraph (a) of this subsection, the circuit clerk shall present the order and the affidavit to the District or Circuit Judge, who shall read the order and enter on the affidavit the information necessary to allow the order's entry into the Law Information Network of Kentucky. The order shall be subject to full faith and credit in the same manner as a Kentucky interpersonal protective order, but shall be subject to verification by the circuit clerk. The order shall be valid for a period of fourteen (14) days and may be renewed once for a period of fourteen (14) days if the circuit clerk has not received a certified copy of the order from the issuing jurisdiction. The clerk shall treat the foreign protective order in the same manner as an interpersonal protective order of this state issued pursuant to KRS 456.060, except that no service on the adverse party shall be required pursuant to 18 U.S.C. sec. 2265.***

***(c) Upon the filing of an uncertified protective order, the circuit clerk shall, within two (2) business days, contact the issuing court to request a certified copy of the order. If the certified copy of the order is received by the circuit clerk within the initial fourteen (14) day period, the clerk shall cause the information that certification has been received to be entered into the Law Information Network of Kentucky and shall notify the applicant for the order of the fact of its certification. A facsimile copy of a certified foreign protective order shall be grounds for the issuance of an interpersonal protective order.***

***(d) If the clerk has not received a certified copy of the foreign protective order within ten (10) days, the clerk shall notify the court and the applicant that the order has not been received. The notice to the applicant, on a form prepared by the Administrative Office of the Courts, shall state that the foreign protective order will be extended for another fourteen (14) days, but will be dismissed at the expiration of that time. If the clerk informs the judge in writing that the certified foreign protective order has been requested but has not yet been received, the judge shall extend the foreign protective order for a period of fourteen (14) days. If certification of the foreign protective order is not received within twenty-eight (28) days, the foreign protective order shall expire and shall not be reissued. If the applicant meets the qualifications for the issuance of a Kentucky interpersonal protective order, the court may, upon proper application and showing of evidence, issue a Kentucky order in accordance with this chapter.***

***(4) The right of a person filing a foreign protective order to bring an action to enforce the order instead of proceeding under this chapter remains unimpaired.***

***SECTION 33. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:***

***KRS 456.150 Authentication of foreign protective order***

***(1) Upon ex parte review of the foreign protective order and the affidavit filed pursuant to KRS 456.140, and after determining the order is entitled to full faith and credit in this Commonwealth pursuant to 18 U.S.C. sec. 2265, the court shall declare the order to be authenticated and record the finding on the affidavit.***

***(2) If the court declares the order to be authenticated, the court shall:***

***(a) Direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with, if applicable; and***

***(b) Order its enforcement in any county of the Commonwealth in the same manner as an interpersonal protective order of this state issued pursuant to KRS 456.060.***

***(3) The clerk shall notify the person who filed the foreign protective order of the decision of the court and provide the person a certified copy of the affidavit declaring the authentication of the order.***

***SECTION 34. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:***

***KRS 456.160 Clearing of foreign protective order as active record from Law Information Network of Kentucky.***

***(1) A foreign protective order which has been entered into the Law Information Network of Kentucky shall be immediately cleared as an active record from the computer system when:***

***(a) The order expires according to the terms contained therein;***

***(b) A Kentucky court notifies the Law Information Network of Kentucky that a foreign protective order has been dismissed, either by court order or entry of notification by a circuit clerk; or***

***(c) A circuit clerk notifies the Law Information Network of Kentucky that a foreign protective order tendered to the clerk has not been authenticated in the time period specified in KRS 456.140.***

***(2) For validation purposes, the Law Information Network of Kentucky shall provide the circuit court clerk with a printout of foreign protective orders. The clerk shall validate each order annually by contacting the original issuing court or jurisdiction. If the clerk has not received information from the foreign jurisdiction within thirty-one (31) days, the clerk shall cause those orders to be cleared from the Law Information Network of Kentucky.***

***SECTION 35. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:***

***KRS 456.170 Notice to court of foreign protective order's expiration, vacation, modification, or other change.***

***(1) A person who has filed a foreign protective order in a court in Kentucky is under a continuing obligation to inform the court of any expiration, vacation, modification, or other change in the order which the person filing the order has received from the issuing foreign court.***

***(2) A person who has filed a foreign protective order in a court in Kentucky shall, within two (2) working days of the occurrence of any event specified in subsection (1) of this section, notify the clerk of the court in which the foreign protective order was filed of the fact of the changed order and present the clerk with a copy of the order for authentication as***

***provided in this chapter. The clerk shall immediately notify the Law Information Network of Kentucky entering agency of the modification.***

***(3) No court in Kentucky and no peace officer in Kentucky shall be expected to enforce a provision of a foreign protective order which has been the subject of any action specified in subsection (1) of this section, unless proper notice has been given in accordance with this section.***

***(4) Intentional failure of a person who has filed a foreign protective order to make the notifications required by this section in the manner required by this section shall constitute contempt of court and may be grounds for an appropriate civil action brought by any person damaged by the intentional act of omission by the person failing to act.***

***SECTION 36. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:***

***KRS 456.180 Violation of order of protection***

***(1) Violation of the terms or conditions of an order of protection after the person has been served or given notice of the order shall constitute contempt of court and a criminal offense under this section. Once a criminal or contempt proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding.***

***(2) (a) Court proceedings for contempt of court for violation of an order of protection shall be held in the county where the order was issued or filed.***

***(b) Court proceedings for a criminal violation of an order of protection shall follow the rules of venue applicable to criminal cases generally.***

***(3) Nothing in this section shall preclude the Commonwealth from prosecuting and convicting the respondent of criminal offenses other than violation of an order of protection.***

***(4) (a) A person is guilty of a violation of an order of protection when he or she intentionally violates the provisions of an interpersonal protective order after the person has been served or given notice of the order.***

***(b) Violation of an order of protection is a Class A misdemeanor.***

**Section 37. KRS 14.304 is amended to read as follows:**

(1) Upon the creation of the crime victim address protection program, an applicant, a parent or guardian acting on behalf of a minor, a guardian acting on behalf of a person who is declared incompetent, or a designee of an applicant or a parent or guardian of a minor or a guardian of a person declared incompetent who cannot for any reason apply themselves, may apply to the Secretary of State to have an address designated by the Secretary of State serve for voting purposes as the address of the applicant, the minor, or the incompetent person. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State by administrative regulation and if it contains:

(a) A sworn statement by the applicant that:

1. The applicant or the minor or the incompetent person on whose behalf the application is made is a victim of a specified offense in an ongoing criminal case or in a criminal case that resulted in a conviction by a judge or jury or by a defendant's guilty plea; or

2. The applicant or the minor or the incompetent person on whose behalf the application is made has been granted an ***order of protection as defined in KRS 403.720 and KRS 456.010***~~[emergency protective order or a domestic violence order under KRS Chapter 403]~~ by a court of competent jurisdiction within the Commonwealth of Kentucky and the order is in effect at the time of application;

(b) A sworn statement by the applicant that disclosure of the address of the applicant would

endanger the safety of the applicant or the safety of the children of the applicant, or the minor or incompetent person on whose behalf the application is made.
(c) The mailing address and the phone number or numbers where the applicant can be contacted by the Secretary of State;
(d) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of a specified offense; and
(e) The signature of the applicant and of a representative of any office designated under KRS 14.310 as a referring agency who assisted in the preparation of the application, and the date on which the applicant signed the application.
(2) Applications shall be filed with the Office of the Secretary of State.
(3) Upon the filing of a properly completed application, the Secretary of State shall certify the applicant as a program participant if the applicant is not required to register as a sex offender or is not otherwise prohibited from participating in the program.
(4) Applicants shall be certified for two (2) years following the date of filing unless the certification is withdrawn or invalidated before that date. The Secretary of State shall promulgate an administrative regulation to establish a renewal procedure.
(5) A person who falsely attests in an application that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of the children of the applicant, or the minor or incompetent person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application may be found guilty of a violation of KRS 523.030.
(6) The addresses of individuals applying for entrance into the crime victim address confidentiality program and the addresses of those certified as program participants shall be exempt from disclosure under the Kentucky Open Records Act, KRS 61.870 to KRS 61.884.
(7) A program participant shall notify the Office of the Secretary of State of a change of address within seven (7) days of the change of address.

**Section 38. KRS 23A.100 is amended to read as follows:**
(1) As a division of Circuit Court with general jurisdiction pursuant to Section 112(6) of the Constitution of Kentucky, a family court division of Circuit Court shall retain jurisdiction in the following cases:
(a) Dissolution of marriage;
(b) Child custody;
(c) Visitation;
(d) Maintenance and support;
(e) Equitable distribution of property in dissolution cases;
(f) Adoption; and
(g) Termination of parental rights.
(2) In addition to general jurisdiction of Circuit Court, a family court division of Circuit Court shall have the following additional jurisdiction:
(a) Domestic violence and abuse proceedings under KRS Chapter 403 subsequent to the issuance of an emergency protective order in accord with local protocols under KRS ***403.725***~~[403.735]~~;
(b) Proceedings under the Uniform Act on Paternity, KRS Chapter 406, and the Uniform Interstate Family Support Act, KRS 407.5101 to 407.5902;
(c) Dependency, neglect, and abuse proceedings under KRS Chapter 620; and
(d) Juvenile status offenses under KRS Chapter 630, except where proceedings under KRS Chapter 635 or 640 are pending.

(3) Family court divisions of Circuit Court shall be the primary forum for cases in this section, except that nothing in this section shall be construed to limit the concurrent jurisdiction of District Court.

**Section 39. KRS 67.372 is amended to read as follows:**

Any county or combination of counties may operate a global positioning monitoring system program subject to the following conditions:

(1) The program shall be assigned by ordinance to a county department or county agency that agrees to operate or supervise the program continuously, twenty-four (24) hours per day, seven (7) days per week;

(2) Each county shall identify a law enforcement agency or agencies with jurisdiction in the county to assist a petitioner, victim, or witness when a person ordered to wear a monitoring device violates the provisions of the court's order and is in need of assistance;

(3) A county or counties electing to contract with an entity providing a global positioning monitoring system and devices shall meet not less than all of the requirements of this section,~~[ and]~~ KRS 403.761 ***and 456.100***;

(4) Each county shall monitor the performance of the entity providing the global positioning system and devices and shall have a provision in the contract with the monitoring entity agreeing to the termination of the contract in the event of serious or continued violations of the contract;

(5) Any system chosen shall use the most appropriate global positioning technology to track the person ordered to wear the monitoring device and shall include technology that:

(a) In a domestic violence case under KRS 403.715 to 403.785 ***or any case under KRS Chapter 456***:

1. Notifies law enforcement or other monitors of any breach of the court-ordered boundaries;
2. Notifies the petitioner in a timely manner of any breach; and
3. Allows monitors to communicate directly with the person ordered to wear the monitoring device; and

(b) In other situations in which monitoring is authorized by KRS 67.374, ~~[ 403.762]~~, 431.517, 431.518, 431.520, ***456.100***, 533.030, and 533.250 the contracting county or combination of counties shall, in the contract, specify the type and level of global positioning monitoring system services desired;

(6) The monitoring entity shall agree to a price for monitoring during the duration of the contract which shall not be increased but may be reduced during the duration of the contract. The contract shall provide that reduced payments shall be accepted by the vendor as a full payment for all purposes from persons determined to be indigent by a court or other authority ordering the use of monitoring. In bidding for the contract the vendor may take into account that some monitored persons will not be able to pay the full cost of the monitoring or may not be able to pay any cost for the monitoring. The contract shall specify that no unit of state or local government and no public officer or employee shall be liable for the costs of monitoring under the contract. Notwithstanding the provisions of this subsection, a county or counties may agree to pay all or a part of the monitoring fee to the monitoring entity if the county would have otherwise been required by a court to place a person in jail at county expense and the cost of the monitoring is less than the cost of placing the person in jail;

(7) Agreements between counties for monitoring services may, with the approval of their governing bodies, be consummated by a contract signed by all counties party thereto or by an interlocal cooperation agreement;

(8) A county utilizing a global positioning monitoring system program may charge an

administrative fee to a person ordered to participate in a global positioning monitoring program to provide for the county's cost in administering the monitoring program. The fee shall be set by ordinance and shall be in addition to the fee charged by the entity contracted to provide the monitoring; and

(9) KRS ***Chapter 456 and KRS 403.715 to 403.785***~~[403.720, 403.740, 403.741, 403.743, 403.747, 403.750, 403.761, and 403.762]~~ shall not apply to a person ordered to participate in a global positioning monitoring system under KRS 431.517, 431.518, 431.520, 533.030, and 533.250. The provisions of a court order that relate to a person ordered to participate in a global positioning monitoring system pursuant to KRS 431.517, 431.518, 431.520, 533.030, and 533.250 shall govern that person's conduct and any reporting or other requirements ordered by the court.

**Section 40. KRS 67.374 is amended to read as follows:**

(1) "Global positioning monitoring system" has the same meaning as in KRS 403.720.

(2) A county or combination of counties electing to participate in a global positioning monitoring system program shall, by ordinance, set other requirements for global positioning monitoring system devices and for the operation of the global positioning monitoring system which shall include, at a minimum, the requirements contained in KRS 403.715 to 403.785***, KRS 456.100,*** ~~[ and]~~ the provisions of this section, and KRS 67.372.

(3) A county or combination of counties electing to participate in a global positioning monitoring system program shall, through a public bid process, select an entity or entities to provide the best available technology with regard to global positioning monitoring system devices that meet the requirements of this section and KRS 67.372, ~~[ 403.720, 403.747, 403.750]~~, 403.761, and 456.100 and a system that meets those same requirements, including but not limited to the acceptance of reduced fees for petitioners and indigent persons ordered to wear a monitoring device.

(4) A person, county, or combination of counties electing to participate in a global positioning monitoring system program shall continuously monitor the performance of successful bidders, receive complaints regarding service, and conduct hearings pursuant to KRS Chapter 13B which may result in penalties as set out in the contract against an entity providing global positioning monitoring system services or which may result in cancellation of the contract with the provider of the service, or both. The provisions of this subsection shall be part of any bid offering and any contract entered into between the county or combination of counties and an entity providing global positioning monitoring system services.

(5) A county or combination of counties electing to operate a global positioning monitoring system program may utilize that program for:

(a) Monitoring a~~[ domestic violence]~~ respondent and petitioner pursuant to KRS 403.715 to 403.785 ***or 456.100***;

(b) Monitoring the pretrial release of a person charged with a crime pursuant to KRS 431.515 to 431.550;

(c) Monitoring a person assigned to a pretrial diversion program pursuant to KRS 533.250 to 533.262; and

(d) Monitoring a person granted probation or conditional discharge pursuant to KRS Chapter 533.

(6) Information obtained by a global positioning monitoring system shall not be a public record.

(7) Information obtained by a global positioning monitoring system shall be used only for the purpose of verifying the location of the monitored person. Global positioning monitoring system information obtained from persons subject to monitoring pursuant to KRS 403.715 to 403.785 ***456.100*** shall not be utilized for any criminal investigation, prosecution, or other criminal justice related purpose without a valid search warrant or order issued by a court of competent jurisdiction.

Information obtained in violation of this subsection or without a valid search warrant or court order shall be inadmissible in court for any purpose.

(8) Any person or organization who knowingly or wantonly divulges global positioning monitoring system information about any person in violation of subsection (6) or (7) of this section shall be guilty of a Class A misdemeanor.

**Section 41. KRS 237.100 is amended to read as follows:**

(1) Upon receipt of notice that a person barred from purchasing a firearm under 18 U.S.C. sec. 922(g)(8) has purchased or attempted to purchase a firearm, the Justice and Public Safety Cabinet shall make a reasonable effort to provide notice to the petitioner who obtained the domestic violence order issued under KRS ***403.740*** ~~[403.750]~~ that the respondent to the order has attempted to purchase a firearm. The Justice and Public Safety Cabinet may contract with a private entity in order to provide notification.

(2) The notification shall be limited to a petitioner who has:

(a) Received a domestic violence protective order issued or reissued under KRS ***403.740*** ~~[403.750]~~ on or after July 15, 2002;

(b) Received a domestic violence protective order that involves a respondent who is prohibited by 18 U.S.C. sec. 922(g)(8) from possessing a firearm; and

(c) Provided the Justice and Public Safety Cabinet or the entity with a request for notification.

(3) Any person carrying out responsibilities under this section shall be immune from civil liability for good faith conduct in carrying out those responsibilities. Nothing in this subsection shall limit liability for negligence.

**Section 42. KRS 431.005 is amended to read as follows:**

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his or her presence; or

(c) Without a warrant when he or she has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his or her presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his or her presence, except that a violation of KRS 189A.010 or KRS 281A.210 need not be committed in his or her presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person being arrested has violated KRS 189A.010 or KRS 281A.210; or

(f) Without a warrant when a violation of KRS 508.030 has occurred in the emergency room of a hospital without the officer's presence if the officer has probable cause to believe that the person being arrested has violated KRS 508.030. For the purposes of this paragraph, "emergency room" means that portion of a licensed hospital which has the primary purpose of providing emergency medical care, twenty-four (24) hours per day, seven (7) days per week, and three hundred sixty-five (365) days per year.

(2) (a) Any peace officer may arrest a person without warrant when the peace officer has probable cause to believe that the person has intentionally or wantonly caused physical injury to a family member**,** ~~[ or]~~ member of an unmarried couple***, or another person with whom the person was or is in a dating relationship***.

(b) ***As used in this subsection, "dating relationship," "family member," and "member of an unmarried couple" have the same meanings as defined in KRS 403.720 and 456.100*** ~~[For~~

~~the purposes of this subsection, the term "family member" has the same meaning as set out in KRS 403.720~~].

(c) For the purpose of this subsection, the term "member of an unmarried couple" has the same meaning as set out in KRS 403.720.

(3) A peace officer may arrest a person without a warrant when the peace officer has probable cause to believe that the person is a sexual offender who has failed to comply with the Kentucky Sex Offender Registry requirements based upon information received from the Law Information Network of Kentucky.

(4) For purposes of subsections (2) and (3) of this section, a "peace officer" is an officer certified pursuant to KRS 15.380.

(5) If a law enforcement officer has probable cause to believe that a person has violated a condition of release imposed in accordance with KRS 431.064 and verifies that the alleged violator has notice of the conditions, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

(6) A private person may make an arrest when a felony has been committed in fact and he or she has probable cause to believe that the person being arrested has committed it.

(7) If a law enforcement officer has probable cause to believe that a person has violated a restraining order issued under KRS 508.155, then the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

**Section 43. KRS 431.015 is amended to read as follows:**

(1) (a) KRS 431.005 to the contrary notwithstanding, and except as provided in paragraphs (b), (c), and (d) of this subsection, a peace officer shall issue a citation instead of making an arrest for a misdemeanor committed in his or her presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.

(b) A peace officer may make an arrest instead of issuing a citation for a misdemeanor committed in his or her presence if the misdemeanor is:

1. A violation of KRS Chapter 508, 510, or 527, or KRS 189A.010;

2. An offense in which the defendant poses a risk of danger to himself, herself, or another person; or

3. An offense in which the defendant refuses to follow the peace officer's reasonable instructions.

(c) A peace officer shall make an arrest for violations of protective orders issued pursuant to KRS 403.715 to 403.785 ***or an order of protection as defined in KRS 456.010***.

(d) A peace officer may make an arrest or may issue a citation for a violation of KRS 508.030 which occurs in the emergency room of a hospital pursuant to KRS 431.005(1)(f).

(2) A peace officer may issue a citation instead of making an arrest for a violation committed in his or her presence but may not make a physical arrest unless there are reasonable grounds to believe that the defendant, if a citation is issued, will not appear at the designated time or unless the offense charged is a violation of KRS 189.223, 189.290, 189.393, 189.520, 189.580, 235.240, 281.600, 511.080, or 525.070 committed in his or her presence or a violation of KRS 189A.010, not committed in his or her presence, for which an arrest without a warrant is permitted under KRS 431.005(1)(e).

(3) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he or she will not appear, a complaint may be made before a judge and a warrant shall issue.

(4) When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word "ARRESTED" in lieu of the date of court appearance.

**Section 44. KRS 431.064 is amended to read as follows:**

(1) In making a decision concerning pretrial release of a person who is arrested for a violation of KRS Chapter 508 or 510, or charged with a crime involving a violation of ***an order of protection as defined in KRS 403.720 and 456.010*** ~~[a protective order issued pursuant to KRS 403.740 or 403.750]~~, the court or agency having authority to make a decision concerning pretrial release shall review the facts of the arrest and detention of the person and determine whether the person:

(a) Is a threat to the alleged victim or other family or household member; and

(b) Is reasonably likely to appear in court.

(2) Before releasing a person arrested for or charged with a crime specified in subsection (1) of this section, the court shall make findings, on the record if possible, concerning the determination made in accordance with subsection (1) of this section, and may impose conditions of release or bail on the person to protect the alleged victim of domestic violence or abuse and to ensure the appearance of the person at a subsequent court proceeding. The conditions may include:

(a) An order enjoining the person from threatening to commit or committing acts of domestic violence or abuse against the alleged victim or other family or household member;

(b) An order prohibiting the person from harassing, annoying, telephoning, contacting, or otherwise communicating with the alleged victim, either directly or indirectly;

(c) An order directing the person to vacate or stay away from the home of the alleged victim and to stay away from any other location where the victim is likely to be;

(d) An order prohibiting the person from using or possessing a firearm or other weapon specified by the court;

(e) An order prohibiting the person from possession or consumption of alcohol or controlled substances;

(f) Any other order required to protect the safety of the alleged victim and to ensure the appearance of the person in court; or

(g) Any combination of the orders set out in paragraphs (a) to (f) of this subsection.

(3) If conditions of release are imposed, the court imposing the conditions on the arrested or charged person shall:

(a) Issue a written order for conditional release; and

(b) Immediately distribute a copy of the order to pretrial services.

(4) The court shall provide a copy of the conditions to the arrested or charged person upon release. Failure to provide the person with a copy of the conditions of release does not invalidate the conditions if the arrested or charged person has notice of the conditions.

(5) If conditions of release are imposed without a hearing, the arrested or charged person may request a prompt hearing before the court to review the conditions. Upon request, the court shall hold a prompt hearing to review the conditions.

(6) The victim, as defined in KRS 421.500, of the defendant's alleged crime, or an individual designated by the victim in writing, shall be entitled to a free certified copy of the defendant's conditions of release, or modified conditions of release, upon request to the clerk of the court which issued the order releasing the defendant. The victim or the victim's designee may personally obtain the document at the clerk's office or may have it delivered by mail.

(7) The circuit clerk or the circuit clerk's designee, in cooperation with the court that issued the order releasing the defendant, shall cause the conditions of release to be entered into the computer system maintained by the clerk and the Administrative Office of the Courts within twenty-four (24)

hours following its filing, excluding weekends and holidays. Any modification of the release conditions shall likewise be entered by the circuit clerk, or the circuit clerk's designee.
(8) The information entered under this section shall be accessible to any agency designated by the Department of Kentucky State Police as a terminal agency for the Law Information Network of Kentucky.
(9) All orders issued under this section which require entry into the Law Information Network of Kentucky shall be entered on forms prescribed by the Administrative Office of the Courts. If the conditions of pretrial release are contained in an order which is narrative in nature, the prescribed form shall be used in addition to the narrative order.
(10) Any person who violates any condition of an order issued pursuant to this section is guilty of a Class A misdemeanor.

**Section 45. KRS 508.130 is amended to read as follows:**
As used in KRS 508.130 to 508.150, unless the context requires otherwise:
(1)(a) To "stalk" means to engage in an intentional course of conduct:
1. Directed at a specific person or persons;
2. Which seriously alarms, annoys, intimidates, or harasses the person or persons; and
3. Which serves no legitimate purpose.
(b) The course of conduct shall be that which would cause a reasonable person to suffer substantial mental distress.
(2) "Course of conduct" means a pattern of conduct composed of two (2) or more acts, evidencing a continuity of purpose. One (1) or more of these acts may include the use of any equipment, instrument, machine, or other device by which communication or information is transmitted, including computers, the Internet or other electronic network, cameras or other recording devices, telephones or other personal communications devices, scanners or other copying devices, and any device that enables the use of a transmitting device. Constitutionally protected activity is not included within the meaning of "course of conduct." If the defendant claims that he was engaged in constitutionally protected activity, the court shall determine the validity of that claim as a matter of law and, if found valid, shall exclude that activity from evidence.
(3) "Protective order" means:
(a) An emergency protective order or domestic violence order issued under KRS 403.715 to 403.785;
(b) A foreign protective order, as defined in ***KRS 403.720 and 456.010***~~[KRS 403.7521(1)]~~;
(c) An order issued under KRS 431.064;
(d) A restraining order issued in accordance with KRS 508.155;
***(e) An order of protection as defined in KRS 403.720 and 456.010;*** and
***(f)***~~[(e)]~~ Any condition of a bond, conditional release, probation, parole, or pretrial diversion order designed to protect the victim from the offender.

**Section 46. KRS 508.155 is amended to read as follows:**
(1) ***(a) Before January 1, 2016,*** a verdict of guilty or a plea of guilty to KRS 508.140 or 508.150 shall operate as an application for a restraining order ***utilizing the provisions of this section and*** limiting the contact of the defendant and the victim who was stalked, unless the victim requests otherwise.
***(b) Beginning on January 1, 2016, a verdict of guilty or a plea of guilty to KRS 508.140 or 508.150 shall operate as an application for an interpersonal protective order issued under KRS Chapter 456, unless the victim requests otherwise. Notwithstanding the provisions of KRS Chapter 456:***

***1. An interpersonal protective order requested under this subsection may be issued by the court that entered the judgment of conviction;***
***2. The judgment of conviction shall constitute sufficient cause for the entry of the order without the necessity of further proof being taken; and***
***3. The order may be effective for up to ten (10) years, with further renewals in increments of up to ten (10) years.***
(2) The court shall give the defendant notice of his or her right to request a hearing on the application for a restraining order. If the defendant waives his or her right to a hearing on this matter, then the court may issue the restraining order without a hearing.
(3) If the defendant requests a hearing, it shall be held at the time of the verdict or plea of guilty, unless the victim or defendant requests otherwise. The hearing shall be held in the court where the verdict or plea of guilty was entered.
(4) A restraining order may grant the following specific relief:
(a) An order restraining the defendant from entering the residence, property, school, or place of employment of the victim; or
(b) An order restraining the defendant from making contact with the victim, including an order forbidding the defendant from personally, or through an agent, initiating any communication likely to cause serious alarm, annoyance, intimidation, or harassment, including but not limited to personal, written, telephonic, or any other form of written or electronic communication or contact with the victim. An order issued pursuant to this subsection relating to a school, place of business, or similar nonresidential location shall be sufficiently limited to protect the stalking victim but shall also protect the defendant's right to employment, education, or the right to do legitimate business with the employer of a stalking victim as long as the defendant does not have contact with the stalking victim. The provisions of this subsection shall not apply to a contact by an attorney regarding a legal matter.
(5) A restraining order issued pursuant to this section shall be valid for a period of not more than ten (10) years, the specific duration of which shall be determined by the court. Any restraining order shall be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim, his or her immediate family, or both.
(6) Unless the defendant has been convicted of a felony, or is otherwise ineligible to purchase or possess a firearm under federal law, a restraining order issued pursuant to this section shall not operate as a ban on the purchase or possession of firearms or ammunition by the defendant.
(7) The restraining order shall be issued on a form prescribed by the Administrative Office of the Courts and may be lifted upon application of the stalking victim to the court which granted the order.
(8) Within twenty-four (24) hours of entry of a restraining order or entry of an order rescinding a restraining order, the circuit clerk shall forward a copy of the order to the Law Information Network of Kentucky (LINK).
(9) A restraining order issued under this section shall be enforced in any county of the Commonwealth. Law enforcement officers acting in good faith in enforcing a restraining order shall be immune from criminal and civil liability.
(10) A violation by the defendant of an order issued pursuant to this section shall be a Class A misdemeanor. Nothing in this section shall preclude the filing of a criminal complaint for stalking based on the same act which is the basis for the violation of the restraining order.

***SECTION 9. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:***
***510.037 Conviction for rape, sodomy, or sexual abuse triggers application for interpersonal***

***protective order.***
***The entering of a judgment of conviction for any degree of rape, sodomy, or sexual abuse under this chapter shall operate as an application for an interpersonal protective order issued under KRS Chapter 456, unless the victim requests otherwise. Notwithstanding the provisions of KRS Chapter 456:***
***(1) An interpersonal protective order requested under this subsection may be issued by the court that entered the judgment of conviction;***
***(2) The judgment of conviction shall constitute sufficient cause for the entry of the order without the necessity of further proof being taken; and***
***(3) The order may be effective for up to ten (10) years, with further renewals in increments of up to ten (10) years.***

**Section 48. KRS 511.085 is amended to read as follows:**
(1) As used in this section, "domestic violence shelter" means a residential facility providing protective shelter services for domestic violence victims.
(2) A person is guilty of domestic violence shelter trespass when:
(a) The person enters the buildings or premises of a domestic violence shelter that the person knows or should know is a domestic violence shelter or which is clearly marked on the building or premises as being a domestic violence shelter; and
(b) At the time of the entering, the person is the subject of an order of protection ***KRS 403.720 and 456.010***~~[entered under KRS 403.740 or 403.750 or a foreign protective order filed under KRS 403.7521]~~.
(3) It shall be a defense to a prosecution under this section that the person entered the shelter with the permission of the operator of the shelter after disclosing to the operator that the person is the subject of an order of protection or a foreign protective order. Authority to enter under this subsection may not be granted by a person taking shelter at the facility.
(4) A person shall not be convicted of a violation of this section and a violation of KRS 511.060, 511.070, or 511.080 arising from the same act of trespass.
(5) Domestic violence shelter trespass is a Class A misdemeanor.

**Section 49. KRS 533.250 is amended to read as follows:**
(1) A pretrial diversion program shall be operated in each judicial circuit. The chief judge of each judicial circuit, in cooperation with the Commonwealth's attorney, shall submit a plan for the pretrial diversion program to the Supreme Court for approval on or before December 1, 1999. The pretrial diversion program shall contain the following elements:
(a) The program may be utilized for a person charged with a Class D felony offense who has not, within ten (10) years immediately preceding the commission of this offense, been convicted of a felony under the laws of this state, another state, or of the United States, or has not been on probation or parole or who has not been released from the service of any felony sentence within ten (10) years immediately preceding the commission of the offense;
(b) The program shall not be utilized for persons charged with offenses for which probation, parole, or conditional discharge is prohibited under KRS 532.045;
(c) No person shall be eligible for pretrial diversion more than once in a five (5) year period;
(d) No person shall be eligible for pretrial diversion who has committed a sex crime as defined in KRS 17.500. A person who is on pretrial diversion on July 12, 2006, may remain on pretrial diversion if the person continues to meet the requirements of the pretrial diversion and the registration requirements of KRS 17.510;
(e) Any person charged with an offense not specified as precluding a person from pretrial

diversion under paragraph (b) of this subsection may apply in writing to the trial court and the Commonwealth's attorney for entry into a pretrial diversion program;
(f) Any person shall be required to enter an Alford plea or a plea of guilty as a condition of pretrial diversion;
(g) The provisions of KRS 533.251 shall be observed; and
(h) The program may include as a component referral to the intensive secured substance abuse treatment program developed under KRS 196.285 for persons charged with a felony offense under KRS Chapter 218A and persons charged with a felony offense whose record indicates a history of recent and relevant substance abuse who have not previously been referred to the program under KRS 533.251.
(2) Upon the request of the Commonwealth's attorney, a court ordering pretrial diversion may order the person to:
(a) Participate in a global positioning monitoring system program through the use of a county-operated program pursuant to KRS 67.372 and 67.374 for all or part of the time during which a pretrial diversion agreement is in effect; or
(b) Use and pay all costs, including administrative and operating costs, associated with the alcohol monitoring device as defined in KRS 431.068. If the court determines that the defendant is indigent, and a person, county, or other organization has not agreed to pay the costs for the defendant in an attempt to reduce incarceration expenses and increase public safety, the court shall consider other conditions of pretrial diversion.
(3) A court ordering global positioning monitoring system for a person pursuant to this section shall:
(a) Require the person to pay all or a part of the monitoring costs based upon the sliding scale determined by the Supreme Court of Kentucky pursuant to KRS 403.761 ***or 456.100*** and administrative costs for participating in the system;
(b) Provide the monitoring system with a written or electronic copy of the conditions of release; and
(c) Provide the monitoring system with a contact at the office of the Commonwealth's attorney for reporting violations of the monitoring order.
(4) A person, county, or other organization may voluntarily agree to pay all or a portion of a person's monitoring costs specified in subsection (3) of this section.
(5) The court shall not order a person to participate in a global positioning monitoring system program unless the person agrees to the monitoring in open court or the court determines that public safety and the nature of the person's crime require the use of a global positioning monitoring system program.
(6) The Commonwealth's attorney shall make a recommendation upon each application for pretrial diversion to the Circuit Judge in the court in which the case would be tried. The court may approve or disapprove the diversion.
(7) The court shall assess a diversion supervision fee of a sufficient amount to defray all or part of the cost of participating in the diversion program. Unless the fee is waived by the court in the case of indigency, the fee shall be assessed against each person placed in the diversion program. The fee may be based upon ability to pay.

**Section 50. KRS 620.140 is amended to read as follows:**
(1) In determining the disposition of all cases brought on behalf of dependent, neglected, or abused children, the juvenile session of the District Court, in the best interest of the child, shall have but shall not be limited to the following dispositional alternatives:
(a) Informal adjustment of the case;

(b) Protective orders, such as the following:
1. Requiring the parent or any other person to abstain from any conduct abusing, neglecting, or making the child dependent;
2. Placing the child in his own home under supervision of the cabinet or its designee with services as determined to be appropriate by the cabinet; and
3. Orders authorized by KRS ***403.715 to 403.785 and by KRS Chapter 456***~~[403.740 and 403.750]~~;
(c) Removal of the child to the custody of an adult relative, other person, or child-caring facility or child-placing agency, taking into consideration the wishes of the parent or other person exercising custodial control or supervision. Before any child is committed to the cabinet or placed out of his home under the supervision of the cabinet, the court shall determine that reasonable efforts have been made by the court or the cabinet to prevent or eliminate the need for removal and that continuation in the home would be contrary to the welfare of the child;
(d) Commitment of the child to the custody of the cabinet for placement for an indeterminate period of time not to exceed his or her attainment of the age eighteen (18), unless the youth elects to extend his or her commitment beyond the age of eighteen (18) under paragraph (e) of this subsection. Beginning at least six (6) months prior to an eligible youth attaining the age of eighteen (18), the cabinet shall provide the eligible youth with education, encouragement, assistance, and support regarding the development of a transition plan, and inform the eligible youth of his or her right to extend commitment beyond the age of eighteen (18); or
(e) Extend or reinstate an eligible youth's commitment up to the age of twenty-one (21) to receive transitional living support. The request shall be made by the youth prior to attaining nineteen (19) years of age. Upon receipt of the request and with the concurrence of the cabinet, the court may authorize commitment up to the age of twenty-one (21).
(2) An order of temporary custody to the cabinet shall not be considered as a permissible dispositional alternative.

**Section 51. The following KRS sections are repealed:**
403.737 Forms for documents entered into Law Information Network of Kentucky.
403.741 Consideration of respondent's criminal history and past emergency protective order or domestic violence order required.
403.743 Referral of petitioner to county attorney -- Duties of county attorney.
403.747 Testimony to be given under oath -- Consideration of specified areas respondent is to be excluded from.
403.7539 Civil and criminal proceedings for violations of foreign protective orders.
403.755 Enforcement by law enforcement agency.
403.760 Contempt of court.
403.762 Request for modification of global positioning monitoring order -- Hearing.
403.763 Criminal penalty for violation of protective order.
403.765 Certification of existence of domestic violence protective orders -- Efficacy of existing orders.
403.770 Nonpublication of petitioner's and minor children's addresses -- Forwarding of order to Law Information Network of Kentucky and other agencies.
403.771 Printout of foreign orders -- Annual validation.
403.775 Effect of petitioner's leaving residence.
403.780 Testimony not admissible in criminal proceeding.

**Section 52. This Act takes effect January 1, 2016.**

Effective date June 24, 2015

# HOUSE BILL 19 FORFEITURE

**Section 1. KRS 218A.420 is amended to read as follows:**

(1) All property which is subject to forfeiture under this chapter shall be disposed of in accordance with this section.

(2) All controlled substances which are seized and forfeited under this chapter shall be ordered destroyed by the order of the trial court unless there is a legal use for them, in which case they may be sold to a proper buyer as determined by the Cabinet for Health and Family Services by promulgated regulations. Property other than controlled substances may be destroyed on order of the trial court.

(3) When property other than controlled substances is forfeited under this chapter and not retained for official use, it may be sold for its cash value. Any sale shall be a public sale advertised pursuant to KRS Chapter 424.

(4) Coin, currency, or the proceeds from the sale of property forfeited shall be distributed as follows:

(a) Eighty-five percent (85%) shall be paid to the law enforcement agency or agencies which seized the property, to be used for direct law enforcement purposes; and

(b) Fifteen percent (15%) shall be paid to the Office of the Attorney General or, in the alternative, the fifteen percent (15%) shall be paid to the Prosecutors Advisory Council for deposit on behalf of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding, as determined by the court pursuant to subsection (9) of this section. Notwithstanding KRS Chapter 48, these funds shall be exempt from any state budget reduction acts.

The moneys identified in this subsection are intended to supplement any funds otherwise appropriated to the recipient and shall not supplant other funding of any recipient.

(5) The Attorney General, after consultation with the Prosecutors Advisory Council, shall promulgate administrative regulations to establish the specific purposes for which these funds shall be expended.

(6) Each state and local law enforcement agency that seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to receiving any forfeited property, adopt policies relating to the seizure, maintenance, storage, and care of property pending forfeiture which are in compliance with or substantially comply with the model policy for seizure of forfeitable assets by law enforcement agencies published by the Department of Criminal Justice Training. However, a state or local law enforcement agency may adopt policies that are more restrictive on the agency than those contained in the model policy and that fairly and uniformly implement the provisions of this chapter.

(7) Each state or local law enforcement agency that seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to receiving forfeited property, have one (1) or more officers currently employed attend asset-forfeiture training approved by the Kentucky Law Enforcement Council, which shall approve a curriculum of study for asset-forfeiture training.

(8)***(a)***Other provisions of this section notwithstanding ***and subject to the limitations of paragraph (b) of this subsection***, any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter may be retained by the seizing agency for official use or sold within its discretion. Proceeds from the sale shall remain with the agency. The moneys shall be utilized for purposes consistent with KRS 218A.405 to 218A.460. The seizing agency shall be required to pay any bona fide perfected security interest on any vehicle so forfeited.

***(b) Any vehicle seized by a law enforcement agency which is forfeited pursuant to this***

***chapter and which has been determined by a state or local law enforcement agency to be contaminated with methamphetamine as defined by KRS 218A.1431 shall not be used, resold, or salvaged for parts, but instead shall be destroyed or salvaged only for scrap metal. Any vehicle which is forfeited pursuant to this chapter and has only transported prepackaged materials or products, precursors, or any other materials which have not been subjected to extraction either directly or indirectly from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis extraction, shall not be deemed contaminated with methamphetamine under this section.***

(9) When money or property is seized in a joint operation involving more than one (1) law enforcement agency or prosecutorial office, the apportionment of funds to each pursuant to subsection (4) of this section shall be made among the agencies in a manner to reflect the degree of participation of each agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. The trial court shall determine the proper division and include the determination in the final order of forfeiture.

## HOUSE BILL 24 DEXTROMETHORPHAN ABUSE

***SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:***

***KRS 218A.1447 Restrictions on possession of dextromethorphan and sale of products containing dextromethorphan.***

***(1) A person, other than a medical facility, medical practitioner, pharmacist, pharmacy intern, pharmacy technician, pharmacy licensed or registered under KRS Chapter 315, or registrant under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. secs. 301 et seq., shall not possess one (1) gram or more of:***

***(a) Pure dextromethorphan; or***

***(b) Dextromethorphan extracted from solid or liquid dose forms, as defined by United States Pharmacopeia reference standards.***

***(2) A person shall not sell any products containing dextromethorphan to individuals under eighteen (18) years of age, except that in any prosecution for selling a product containing dextromethorphan to an individual under eighteen (18) years of age it shall be an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his or her age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he or she was of legal age to purchase products containing dextromethorphan. This evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.***

***(3) Any person who sells any product containing dextromethorphan shall limit access to these products by requiring proof of age from a prospective buyer by showing a government-issued photo identification card that displays his or her date of birth if the person has reason to believe that the prospective buyer is under the age of eighteen (18) years.***

***SECTION 2. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:***

***KRS 218A.1448 Offenses relating to purchases of products containing dextromethorphan by minors.***

***(1) No person shall aid or assist any person under eighteen (18) years of age in purchasing any product containing dextromethorphan.***

***(2) A person under eighteen (18) years of age shall not misrepresent his or her age for the purpose of inducing a retail establishment or the retail establishment's agent, servant, or employee to sell or serve a product containing dextromethorphan to the underage person.***

***(3) A person under eighteen (18) years of age shall not use or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain a product containing dextromethorphan.***

***(4) Any person under the age of eighteen (18) years of age shall not purchase or attempt to purchase or have another person purchase for him or her a product containing dextromethorphan.***

***SECTION 3. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:***

***KRS 218A.1449 Penalties for violation of KRS 218A.1447 or 218A.1448.***

***(1) Any person who violates KRS 218A.1447(1) shall be subject to a fine of one thousand dollars ($1,000) for the first violation and two thousand five hundred dollars ($2,500) for each subsequent violation.***

***(2) Any person who knowingly violates KRS 218A.1447(2) shall be subject to a fine of twenty-five dollars ($25) for the first violation and two hundred dollars ($200) for each subsequent violation.***

***(3) Any person who knowingly violates KRS 218A.1447(3) shall be subject to a fine of twenty-five dollars ($25) for the first violation and two hundred fifty dollars ($250) for each subsequent violation.***

***(4) Any person who knowingly violates KRS 218A.1447(1) shall be subject to a fine of one hundred dollars ($100) for the first violation and two hundred dollars ($200) for each subsequent violation.***

***(5) Any person who violates KRS 218A.1447(2), (3), or (4) shall be subject to a fine of twenty-five dollars ($25) for the first violation, a fine of one hundred dollars ($100) for the second violation, and a fine of two hundred dollars ($200) for each subsequent violation.***

## HOUSE BILL 59 AVIATION

***SECTION 1. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:***

***KRS 183.887 Pointing laser or other light at aircraft operator.***

***(1) As used in this section, "laser" means any device designed or used to amplify electromagnetic radiation by stimulated emission that emits a beam.***

***(2) A person shall not knowingly direct at an aircraft, any light emitted from a laser device or any other source which is capable of interfering with the vision of a person operating the aircraft.***

***(3) This section shall not apply to:***

***(a) An authorized individual in the conduct of research and development or flight test***

***operations conducted by an aircraft manufacturer, the Federal Aviation Administration, or any other person authorized by the Federal Aviation Administration to conduct such research and development or flight test operations; or***

***(b) Members or elements of the United States Department of Defense or United States Department of Homeland Security acting in an official capacity for the purpose of research, development, operations, testing, or training.***

**Section 2. KRS 183.990 is amended to read as follows:**

(1) Any person violating any of the provisions of this chapter with respect to operation of aircraft, or violating the provisions of any rule, regulation, or ordinance adopted under KRS 183.133(6), shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) or imprisoned not more than ninety (90) days or both.

(2) Each violation of the statutes pertaining to the state airport zoning commission or of any order, rule, or regulation promulgated pursuant thereto shall be punishable by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisonment for not more than thirty (30) days or both and each day a violation continues to exist shall constitute a separate offense.

(3) Any person who violates the provisions of KRS 183.886 shall be fined not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) or shall be imprisoned in the county jail for not less than ten (10) nor more than ninety (90) days, or both.

***(4) Any person who violates the provisions of KRS 183.887(2) shall be guilty of:***

***(a) A Class A misdemeanor; or***

***(b) A Class D felony, if the violation causes a significant change of course or a serious disruption to the safe travel of the aircraft that threatens the physical safety of the passengers and crew of the aircraft.***

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## HOUSE BILL 91 CHARITABLE GAMING

**Section 1. KRS 238.505 is amended to read as follows:**

As used in this chapter, unless the context requires otherwise:

(8) "Charity fundraising event" means an activity of limited duration at which games of chance approved by the department are conducted, including bingo, raffles, charity game tickets, special limited charitable games, and wagering on prerecorded horse races, KRS Chapter 230 notwithstanding. Examples of such activities include events that attract patrons for community, social, and entertainment purposes apart from charitable gaming, such as fairs, festivals, carnivals, licensed charitable gaming organization conventions,~~[ and]~~ bazaars***, and banquets. For the purposes of this subsection, banquet shall mean a formal meal or feast held by a charitable organization for community, social, or entertainment purposes apart from charitable gaming;***

**Section 2. KRS 238.535 is amended to read as follows:**

(8)***(a)***In order to qualify for licensure, a charitable organization shall:

~~[(a)]~~1.***a.*** Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of those sections; or

***b.***~~[2.]~~ Be organized within the Commonwealth of Kentucky as a common school as defined in

KRS 158.030, as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;

***2.***~~[(b)]~~ Have been established and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, for a period of three (3) years prior to application for licensure. For purposes of this paragraph, an applicant shall demonstrate establishment and continuous operation in Kentucky by its conduct of charitable activities from an office physically located within Kentucky both during the three (3) years immediately preceding its application for licensure and at all times during which it possesses a charitable gaming license. However, a charitable organization that operates for charitable purposes in more than ten (10) states and whose principal place of business is physically located in a state other than Kentucky may satisfy the requirements of this paragraph if it can document that it has:

***a.***~~[1.]~~ Been actively engaged in charitable activities and has made reasonable progress, as defined in paragraph ***(a)3.***~~[(c)]~~ of this subsection, in the conduct of charitable activities or the expenditure of funds within Kentucky for a period of three (3) years prior to application for licensure; and

***b.***~~[2.]~~ Operated for charitable purposes from an office or place of business in the Kentucky county where it proposes to conduct charitable gaming for at least one (1) year prior to application for licensure, in accordance with ***paragraphs (a)4. and (c)***~~[paragraph (d)]~~ of this subsection;

***3.***~~[(c)]~~ Have been actively engaged in charitable activities during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the department, reasonable progress in accomplishing its charitable purposes during this period. As used in this paragraph, "reasonable progress in accomplishing its charitable purposes" means the regular and uninterrupted conduct of activities within the Commonwealth or the expenditure of funds within the Commonwealth to accomplish relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3). In order to demonstrate reasonable progress in accomplishing its charitable purposes when applying to renew an existing license, a licensed charitable organization shall additionally provide to the department a detailed accounting regarding its expenditure of charitable gaming net receipts for the purposes described in this paragraph; and

***4.***~~[(d)]~~ Have maintained an office or place of business, other than for the conduct of charitable gaming, for ***at least*** one (1) year in the county in which charitable gaming is to be conducted. The office or place of business shall be a separate and distinct address and location from that of any other licensee of the Department of Charitable Gaming; except that up to three (3) licensed charitable organizations may have the same address if they legitimately share office space.

***(b)*** ~~[For the conduct of a raffle, the county in which charitable gaming is to be conducted shall be the county in which the raffle drawing is to be conducted. However,]~~

***1.*** A charitable organization that has established and maintained an office or place of business in the county for a period of at least one (1) year may hold a raffle drawing or a charity fundraising event, including special limited charity fundraising events, in a Kentucky county other than that in which the organization's office or place of business is located.

***2.*** For raffles, the organization shall notify the Department of Charitable Gaming in writing of the organization's intent to change the drawing's location at least thirty (30) days before the drawing takes place. This written notification***:***

***a.*** May be transmitted in any commercially reasonable means, authorized by the department, including facsimile and electronic mail***; and***~~[. The notification]~~

***b.*** Shall set out the place and the county in which the drawing will take place.

Approval by the department shall be received prior to the conduct of the raffle drawing at the new location.

***(c)*** Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy ***the***~~[this]~~ requirement ***contained in paragraph (a)4. of this subsection*** if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered.~~[ Any licensed charitable organization that qualifies to conduct charitable gaming in an adjoining county under this paragraph, shall be permitted to conduct in its county of residence a charity fundraising event.]~~

(9) In applying for a license, the information to be submitted shall include but not be limited to the following:

(a) The name and address of the charitable organization;

(b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county ***or counties*** in which charitable gaming is to be conducted;

* * * * *

**Section 3. KRS 238.545 is amended to read as follows:**

(1) A licensed charitable organization shall be limited by the following:

(a) In the conduct of bingo, to one (1) session per day, two (2) sessions per week, for a period not to exceed five (5) consecutive hours in any day and not to exceed ten (10) total hours per week***.***~~[.]~~

***1.*** No licensed charitable organization shall conduct bingo at more than one (1) location during the same twenty-four (24) hour period***;***~~[.]~~

***2.*** No licensed charitable organization shall award prizes for bingo that exceed five thousand dollars ($5,000) in fair market value per twenty-four (24) hour period, including the value of door prizes***; and***~~[.]~~

***3.*** No person under the age of eighteen (18) shall be permitted to purchase bingo supplies or play bingo ***unless he or she is playing***~~[. A charitable organization may permit persons under age eighteen (18) to play bingo]~~ for noncash prizes ***and is***~~[if they are]~~ accompanied by a parent or legal guardian and only if the value of any noncash prize awarded does not exceed ten dollars ($10);

(b)***1.*** A licensed charitable organization may provide card-minding devices for use by players of bingo games.

***2.*** If a licensed charitable organization offers card-minding devices for use by players, the devices shall be capable of being used in conjunction with bingo cards or paper sheets at all times.

***3.*** The department shall have broad authority to define and regulate the use of card-minding devices and shall promulgate an administrative regulation concerning use and control of them;

(c) Charity game tickets shall be sold only at the address of the location designated on the license to conduct charitable gaming;

(d) Charity game tickets may be sold, with prior approval of the department:

1. At any authorized special charity fundraising event conducted by a licensed charitable organization at any off-site location; or

2. By a licensed charitable organization possessing a special limited charitable gaming license at any off-site location; and

(e) An automated charity game ticket dispenser may be utilized by a licensed charitable organization, with the prior approval of the department, only at the address of the location designated on the license to conduct charitable gaming~~[, and only during bingo sessions]~~. The department shall promulgate administrative regulations regulating the use and control of approved automated charity game ticket dispensers.

(2)***(a)***No prize for an individual charity game ticket shall exceed five hundred ninety-nine dollars ($599) in value, not including the value of cumulative or carryover prizes awarded in seal card games.

***(b)*** Cumulative or carryover prizes in seal card games shall not exceed two thousand four hundred dollars ($2,400).

***(c)*** Information concerning rules of the particular game and prizes that are to be awarded in excess of fifty dollars ($50) in each separate package or series of packages with the same serial number and all rules governing the handling of cumulative or carryover prizes in seal card games shall be posted prominently in an area where charity game tickets are sold. A legible poster that lists prizes to be awarded, and on which prizes actually awarded are posted at the completion of the sale of each separate package shall satisfy this requirement.

***(d)*** Any unclaimed money or prize shall return to the charitable organization.

***(e)*** No charity game ticket shall be sold in the Commonwealth of Kentucky that does not conform to the standards for opacity, randomization, minimum information, winner protection, color, and cutting established by the department.

***(f)*** No person under the age of eighteen (18) shall be permitted to purchase, or open in any manner, a charity game ticket.

(3)***(a)***Tickets for a raffle shall be sold separately, and each ticket shall constitute a separate and equal chance to win.

***(b)*** All raffle tickets shall be sold for the price stated on the ticket, and no person shall be required to purchase more than one (1) ticket or to pay for anything other than a ticket to enter a raffle.

***(c) Raffle tickets and tickets for charity fundraising raffle games approved by the department which are offered exclusively at charity fundraising events and special limited charity fundraising events are not required to be sold separately and may be sold at discounted package rates.***

***(d)*** Raffle tickets shall have a unique identifier ***on each ticket***~~[for the ticket holder]~~.

***(e)*** Winners shall be drawn at random at a date, time, and place announced in advance or printed on the ticket.

***(f)*** All prizes for a raffle shall be identified in advance of the drawing and all prizes identified shall be awarded.

(4) With respect to charity fundraising events, a licensed charitable organization shall be limited as follows:

(a) No licensed charitable organization shall conduct a charity fundraising event or a special limited charity fundraising event unless they have a license for the respective event issued by the department;

(b) No special license shall be required for any wheel game, such as a cake wheel, that awards only noncash prizes the value of which does not exceed one hundred dollars ($100);

(c) The department may grant approval for a licensed charitable organization to play bingo games at a charity fundraising event. Cash prizes for bingo games played during a charity fundraising event may not exceed five thousand dollars ($5,000) for the entire event. No person under the age of eighteen (18) shall be permitted to play bingo at a charity fundraising event unless accompanied by a parent or legal guardian;

(d) The department may grant approval for a licensed charitable organization to play special limited charitable games at a charity fundraising event authorized under this section. The department shall not grant approval for the playing of special limited charitable games under the provisions of a charity fundraising event license unless the proposed event meets the definition of a charity fundraising event held for community, social, or entertainment purposes apart from charitable gaming in accordance with KRS 238.505(8);~~[ and]~~

(e) Except for state, county, city fairs, and special limited charity fundraising events, a charity fundraising event license issued under this section shall not exceed seventy-two (72) consecutive hours. A licensed charitable organization shall not be eligible for more than ***eight (8)*** ~~[four (4)]~~ total charity fundraising event licenses per year, including two (2) special limited charity fundraising event licenses. No person under eighteen (18) years of age shall be allowed to play or conduct any special limited charitable game. The department shall have broad authority to regulate the conduct of special limited charity fundraising events in accordance with the provisions of KRS 238.547***; and***

***(f) Charity fundraising events may be held:***

***1. On or in the premises of a licensed charitable organization;***

***2. In a licensed charitable gaming facility, subject to restrictions contained in KRS 238.555(7); or***

***3. At an unlicensed facility which shall be subject to the requirements stipulated in KRS 238.555(3), and subject to the restrictions contained in KRS 238.547(2). Charity fundraising events at an unlicensed facility shall be limited to:***

***a. No more than one (1) such event per week; and***

***b. No more than seven (7) such events per year, with no more than five (5) licensed charitable organizations conducting such events at an unlicensed facility per year***.

(5) Presentation of false, fraudulent, or altered identification by a minor shall be an affirmative defense in any disciplinary action or prosecution that may result from a violation of age restrictions contained in this section, if the appearance and character of the minor were such that his or her age could not be reasonably ascertained by other means.

**Section 4. KRS 238.540 is amended to read as follows:**

**(1)** ~~**[Except as provided in KRS 238.535(8)(d), ]**~~Charitable gaming shall be conducted by a licensed charitable organization at the location, date, and time which shall be stated on the license. The licensee shall request a change in the date, time, or location of a charitable gaming event by mail, electronic mail, or facsimile transmission, and shall submit a lease and an original signature of an officer. The department shall process this request and issue or deny a license within ten (10) days.

* * * * *

## HOUSE BILL 181 REEMPLOYMENT OF RETIRED OFFICERS

**Section 1. KRS 70.291 is amended to read as follows:**

As used in KRS 70.291 to 70.293, "police officer" shall have the same meaning as ***"police officer"*** in KRS 15.420 ***and as "officer" in KRS 16.010***.

**Section 2. KRS 70.292 is amended to read as follows:**

(1) A county sheriff's office in the Commonwealth of Kentucky may employ police officers who have retired under the ***State Police Retirement System,*** Kentucky Employees Retirement System, or the County Employees Retirement System as provided by KRS 70.291 to 70.293.

(2) An individual employed under KRS 70.291 to 70.293 shall have:

(a)*1.* Participated in the Law Enforcement Foundation Program fund under KRS 15.410 to 15.515; *or*

***2. Retired as a commissioned officer pursuant to KRS Chapter 16;***

(b) Retired with at least twenty (20) years of service credit;

(c) Been separated from service for the period required by KRS 61.637 so that the member's retirement is not voided;

(d) Retired with no administrative charges pending; and
(e) Retired with no pre-existing agreement between the individual and the sheriff's office prior to the individual's retirement for the individual to return to work for the sheriff's office.

**Section 3. KRS 70.293 is amended to read as follows:**
(1) Individuals employed under KRS 70.291 to 70.293 shall:
(a) Serve for a term not to exceed one (1) year. The one (1) year employment term may be renewed annually at the discretion of the employing sheriff's office;
(b) Receive compensation according to the standard procedures applicable to the employing sheriff's office; and
(c) Be employed based upon need as determined by the employing sheriff's office.
(2) Notwithstanding any provisions of KRS ***16.505 to 16.652,*** 18A.225 to 18A.2287, 61.510 to 61.705, or 78.510 to 78.852 to the contrary:
(a) Individuals employed under KRS 70.291 to 70.293 shall continue to receive all retirement and health insurance benefits to which they were entitled upon retiring in the applicable system administered by Kentucky Retirement Systems;
(b) Individuals employed under KRS 70.291 to 70.293 shall not be eligible to receive health insurance coverage through the sheriff's office or the fiscal court of the sheriff's county;
(c) The sheriff's office or fiscal court of the sheriff's office shall not pay any employer contributions or retiree health expense reimbursements to the Kentucky Retirement Systems required by KRS 61.637(17) for individuals employed under KRS 70.291 to 70.293; and
(d) The sheriff's office or fiscal court of the sheriff's office shall not pay any insurance contributions to the state health insurance plan, as provided by KRS 18A.225 to 18A.2287, for individuals employed under KRS 70.291 to 70.293.
(3) Individuals employed under KRS 70.291 to 70.293 shall be subject to any merit system, civil service, or other legislative due process provisions applicable to the sheriff's office. A decision not to renew a one (1) year appointment term under this section shall not be considered a disciplinary action or deprivation subject to due process.

## HOUSE BILL 248 ANAPHYLAXIS MEDICATION

* * * * *

***SECTION 29. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:***
***KRS 311.645 Definitions for KRS 311.645 to 311.647***
***As used in KRS 311.645 to 311.647:***
***(1) "Anaphylaxis" means an allergic reaction resulting from sensitization following prior contact with an antigen which can be a life-threatening emergency, including reactions triggered by, among other agents, foods, drugs, injections, insect stings, and physical activity;***
***(2) "Administer" means to directly apply an epinephrine auto-injector to the body of an individual;***
***(3) "Authorized entity" means an entity that may at any time have allergens present that are capable of causing a severe allergic reaction and has an individual who holds a certificate issued under KRS 311.646 on the premises or officially associated with the entity. The term includes but is not limited to restaurants, recreation camps, youth sports leagues,***

***theme parks and resorts, and sports arenas;***
***(4) "Certified individual" means an individual who successfully completes an approved educational training program and obtain a certificate, as described in KRS 311.646;***
***(5) "Epinephrine auto-injector" means a single-use device used to administer a premeasured dose of epinephrine;***
***(6) "Health-care practitioner" means a physician or other health-care provider who has prescriptive authority; and***
***(7) "Self-administration" means an individual's administration of an epinephrine auto-injector on herself or himself.***

***SECTION 30. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:***
***KRS 311.646 Prescription epinephrine auto-injectors***
***(1) A health-care practitioner may prescribe epinephrine auto-injectors in the name of an authorized entity or to a certified individual for use in accordance with this section.***
***(2) A pharmacist may dispense epinephrine auto-injectors pursuant to a prescription issued in the name of an authorized entity or to a certified individual.***
***(3) The Department for Public Health, the Kentucky Board of Medical Licensure, the Kentucky Board of Nursing, the American Red Cross, or other training programs approved by the Department for Public Health may conduct in-person or on-line training for administering lifesaving treatment to persons believed in good faith to be experiencing severe allergic reactions and issue a certificate of training to persons completing the training. The training shall include instructions for recognizing the symptoms of anaphylaxis and administering an epinephrine auto-injector.***
***(4) An individual who has a certificate issued under this section may:***
***(a) Receive a prescription for epinephrine auto-injectors from a health-care practitioner;***
***(b) Possess prescribed epinephrine auto-injectors; and***
***(c) In an emergency situation when a physician is not immediately available and the certified individual in good faith believes a person is experiencing a severe allergic reaction regardless of whether the person has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy:***
***1. Administer an epinephrine auto-injector to the person; and***
***2. Provide an epinephrine auto-injector to the person for immediate self-administration.***
***(5) An authorized entity that acquires and stocks a supply of epinephrine auto-injectors with a valid prescription shall:***
***(a) Store the epinephrine auto-injectors in accordance with manufacturer's instructions and with any additional requirements established by the department; and***
***(b) Designate an employee or agent who holds a certificate issued under this section to be responsible for the storage, maintenance, and general oversight of epinephrine auto-injectors acquired by the authorized entity.***
***(6) Any individual or entity who administers or provides an epinephrine auto-injector to a person who is experiencing a severe allergic reaction shall contact the local emergency medical services system as soon as possible.***
***(7) Any individual or entity who acquires and stocks a supply of epinephrine auto-injectors in accordance with this section shall notify an agent of the local emergency medical services system and the local emergency communications or vehicle dispatch center of the existence, location, and type of the epinephrine auto-injectors acquired if a severe allergic reaction has occurred.***

***SECTION 31. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:***

***KRS 311.647 Immunity from civil liability for rendering emergency care or treatment with epinephrine auto-injector.***

***(1) Any individual or entity who, in good faith and without compensation, renders emergency care or treatment by the use of an epinephrine auto-injector shall be immune from civil liability for any personal injury as a result of the care or treatment, or as a result of any act or failure to act in providing or arranging further medical treatment, if the person acts as an ordinary, reasonable prudent person would have acted under the same or similar circumstances.***

***(2) The immunity from civil liability for any personal injury under subsection (1) of this section includes:***

***(a) A health-care practitioner who prescribes or authorizes the emergency use of the epinephrine auto-injector;***

***(b) A pharmacist who fills a prescription for the epinephrine auto-injector;***

***(c) A certified individual who provides or administers the epinephrine auto-injector;***

***(d) An authorized entity who stores or provides the epinephrine auto-injector to a certified individual or authorized noncertified individual; and***

***(e) An individual trainer or training entity providing the certified individual.***

***(3) The immunity from civil liability under subsection (1) of this section shall not apply if the personal injury results from the gross negligence or willful or wanton misconduct of the person rendering the emergency care.***

***(4) The requirements of KRS 311.646(6) shall not apply to any individual who provides or administers an epinephrine auto-injector if that individual is acting as a Good Samaritan under KRS 313.035 and 411.148.***

**Section 32. Sections 29 to 31 of this Act may be cited as the Emergency Allergy Treatment Act.**

## HOUSE BILL 315 BOOSTER SEATS

**Section 1. KRS 189.125 is amended to read as follows:**

(1) Except as otherwise provided in this section, "motor vehicle" as used in this section means every vehicle designed to carry fifteen (15) or fewer passengers and used for the transportation of persons, but the term does not include:

(a) Motorcycles;

(b) Motor-driven cycles; or

(c) Farm trucks registered for agricultural use only and having a gross weight of one (1) ton or more.

(2) A person shall not sell any new motor vehicle in this state nor shall any person make application for registering a new motor vehicle in this state unless the front or forward seat or seats have adequate anchors or attachments secured to the floor and/or sides to the rear of the seat or seats to which seat belts may be secured.

(3)(a) Any driver of a motor vehicle, when transporting a child of forty (40) inches in height or less in a motor vehicle operated on the roadways, streets, and highways of this state, shall have the child properly secured in a child restraint system of a type meeting federal motor vehicle safety standards.

(b) Any driver of a motor vehicle, when transporting a child under the age of ***eight (8)***[~~seven~~

~~(7)~~] years who is between forty (40) inches and ***fifty-seven (57)***[~~fifty (50)~~] inches in height in a motor vehicle operated on the roadways, streets, and highways of this state, shall have the child properly secured in a child booster seat. ***A child of any age who is greater than fifty-seven (57) inches in height shall not be required to be secured in a child booster seat under this section.***

(4) As used in this section:

(a) "Child restraint system" means any device manufactured to transport children in a motor vehicle which conforms to all applicable federal motor vehicle safety standards; and

(b) "Child booster seat" means a child passenger restraint system that meets the standards set forth in 49 C.F.R. Part 571 that is designed to elevate a child to properly sit in a federally approved lap-and-shoulder belt system.

(5) Failure to use a child passenger restraint system or a child booster seat shall not be considered as contributory negligence, nor shall such failure to use a passenger restraint system or booster seat be admissible as evidence in the trial of any civil action. Failure of any person to wear a seat belt shall not constitute negligence per se.

(6) A person shall not operate a motor vehicle manufactured after 1981 on the public roadways of this state unless the driver and all passengers are wearing a properly adjusted and fastened seat belt, unless the passenger is a child who is secured as required in subsection (3) of this section. The provisions of this subsection shall not apply to:

(a) A person who has in his possession at the time of the conduct in question a written statement from a physician or licensed chiropractor that he is unable, for medical or physical reasons, to wear a seat belt; or

(b) A letter carrier of the United States postal service while engaged in the performance of his duties.

(7) A conviction for a violation of subsection (6) of this section shall not be transmitted by the court to the Transportation Cabinet. The Transportation Cabinet shall not include a conviction for a violation of subsection (6) of this section as part of any person's driving history record.

(8) The provisions of subsection (6) of this section shall supersede any existing local ordinance involving the use of seat belts. No ordinance contrary to subsection (6) of this section may be enacted by any unit of local government.

## HOUSE BILL 333 POLICE OFFICER BILL OF RIGHTS

**Section 1. KRS 15.520 is amended to read as follows:**

**(1)** ***As used in this section:***

***(a) "Citizen" means any individual who is not:***

***1. A member or supervisor within the law enforcement agency that employs an officer; or***

***2. An elected or appointed official within the unit of government under which the law enforcement agency that employs the officer is organized;***

***(b) "Complaint" means any statement by a citizen, whether written or verbal, that alleges any type of misconduct by an officer, including statements that are submitted or received anonymously;***

***(c) "Disciplinary action" means termination, demotion, a decrease in pay or grade, suspension without pay, and a written reprimand;***

***(d) "General employment policies" means the rules, regulations, policies, and procedures commonly applicable to the general workforce or civilian employees that are not***

***unique to law enforcement activities or the exercise of peace officer authority, regardless of whether those rules, regulations, policies, and procedures exist or appear in a departmental manual or handbook that is solely applicable to a law enforcement department or agency within the unit of government employing the officer;***

***(e) "Interrogation" means a formal investigative interview and does not mean conversations or meetings of supervisory personnel and subordinate officers that are not intended to result in disciplinary action, such as conversations or meetings held for the purpose of providing corrective instruction counseling or coaching;***

***(f) "Law enforcement procedures" means only those policies, rules, and customs that:***

***1. Are specific to the conduct of officers in the exercise of law enforcement powers and functions, including, without limitation: use of force, conduct in the course of pursuits, conduct during stops or detentions of citizens, conduct in the course of interacting with, assisting, or questioning of citizens, and investigative conduct;***

***2. Are carried out in the course of peace officer functions;***

***3. Are not general employment policies; and***

***4. That may exist in either written form or in the form of unwritten standards, practices, or protocols generally accepted and applied in the law enforcement profession.***

***(g) "Misconduct" means any act or omission by an officer that violates criminal law, law enforcement procedures, or the general employment policies of the employing agency; and***

***(h) "Officer" means a person employed as a full-time peace officer by a unit of government that receives funds under KRS 15.410 to 15.510 who has completed any officially established initial probationary period of employment lasting no longer than twelve (12) months not including, unless otherwise specified by the employing agency, any time the officer was employed and completing the basic training required by KRS 15.404.***

***(2)*** In order to establish a minimum system of professional conduct ***for***~~[of the police]~~ officers of local units of government of this Commonwealth, the following standards~~[ of conduct]~~ are stated as the intention of the General Assembly to deal fairly and set administrative due process rights ***in certain disciplinary matters concerning those***~~[for police]~~ officers of ***an employing***~~[the local]~~ unit of government ***that participates in the Kentucky Law Enforcement Foundation Program fund administered pursuant to KRS 15.430*** and, at the same time***, to provide*** ~~[providing ]~~a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by ~~[police]~~ officers covered by this section. ~~[:]~~

*(3)*~~[(a)]~~ Any complaint taken from ***a citizen***~~[any individual]~~ alleging misconduct on the part of any *officer*~~[police officer, as defined herein,]~~ shall be taken as follows:

***(a)***~~[1.]~~ If the complaint alleges criminal activity ***by an***~~[on behalf of a police]~~ officer, the allegations may be investigated without a signed, sworn complaint of the ***citizen***~~[individual]~~;

***(b)***~~[2.]~~ If the complaint alleges ***any other type of violation not constituting criminal activity, including violations of law enforcement procedures or the general employment policies of the employing agency***~~[abuse of official authority or a violation of rules and regulations of the department]~~, an affidavit, signed and sworn to by the ***citizen***~~[complainant]~~, shall be obtained***, except as provided by paragraph (c) of this subsection; or***

***(c)***~~[3.]~~ If a complaint is required to be obtained and the ***citizen***~~[individual]~~, upon request, refuses to make allegations under oath in the form of an affidavit, signed and sworn to, the ***employing agency***~~[department]~~ may investigate the allegations, but shall bring charges ***under subsection (6) of this section*** against the ~~[police ]~~officer only if the ***employing agency***~~[department]~~ can independently substantiate the allegations absent the sworn statement of the ***citizen***~~[complainant;~~

~~4. Nothing in this section shall preclude a department from investigating and charging an officer both criminally and administratively]~~.

***(4)(a) When an officer is accused of an act or omission that would constitute a violation of law enforcement procedures by any individual within the law enforcement agency employing the officer, including supervisors and elected or appointed officials of the officer's employing agency, the employing agency shall conform the conduct of any investigation to the provisions of subsection (5) of this section, shall formally charge the officer in accordance with subsection (6) of this section, and shall conduct a hearing in accordance with subsection (7) of this section before any disciplinary action shall be taken against the officer.***

***(b) The provisions of this subsection shall not prevent the employing agency from suspending the officer, with or without pay, during an investigation and pending the final disposition of any formal charges, except that an officer suspended without pay shall be entitled to full back pay and benefits for the regular hours he or she would have worked if no formal charges are brought or the hearing authority finds the officer not guilty of the charges.***

***(c) An employing agency shall not be required to follow the provisions of this section in addressing conduct by the officer that would constitute a violation of the general employment policies of the employing agency.***

***(5) (a) Any complaint filed by a citizen under subsection (3) of this section or any allegation of conduct that would constitute a violation of law enforcement procedures under subsection (4) of this section shall be investigated by the employing agency or another designated law enforcement agency in accordance with the provisions of this subsection if the employing agency determines that an investigation of the complaint or the alleged conduct is warranted.***

(b) No threats, promises, or coercions shall be used at any time against any ~~[police ]~~officer while he or she is a suspect in a criminal ***case or has been accused of a violation of law enforcement procedures***~~[or departmental matter]~~. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during the period shall not be deemed coercion. Prior to or within twenty-four (24) hours after suspending the officer pending investigation or disposition of a complaint, the officer shall be advised in writing of the reasons for the suspension.~~[;]~~

(c) ***Unless otherwise agreed to in writing by the officer,*** no police officer shall be subjected to interrogation ***for alleged conduct that violates law enforcement procedures***~~[in a departmental matter involving] alleged misconduct on his or her part]~~, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing. ***The notice of interrogation shall include a statement regarding any reason for the interrogation and shall be served on the officer by certified mail, return receipt requested, or by personal delivery.***

***(d)*** The interrogation shall be conducted while the officer is on duty. The ~~[police ]~~officer may be required to submit a written report of the alleged incident if the request is made by the ***employing agency***~~[department]~~ no later than the end of the subject officer's next tour of duty after the tour of duty during which the ***employing agency***~~[department]~~ initially was made aware of the ***complaint.***~~[charges;]~~

***(e)***~~[(d)]~~ If ***an***~~[a police]~~ officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation, he ***or she*** shall be afforded the same constitutional due process rights that are accorded to any civilian, including, but not limited to, the right to remain silent and the right to counsel, and shall be notified of those rights before any questioning commences. ~~[Nothing in this section shall prevent the suspension with or without pay or reassignment of the police officer pending disposition of the charges;]~~

***(6)(a)***~~[(c)]~~ ***If it is determined through investigation or other means that the facts alleged in a citizen complaint or in an accusation of a violation of law enforcement procedures***

***warrant charging the officer, the charge***~~[Any charge involving violation of any local unit of government rule or regulation]~~ shall be made in writing with sufficient specificity so as to fully inform the ~~[police]~~ officer of the nature and circumstances of the alleged violation in order that he ***or she*** may be able to properly defend himself ***or herself***.

***(b)*** The charge shall be ***signed by a representative of the employing agency, shall set out the disciplinary action recommended or imposed, and shall be*** served on the ~~[police]~~ officer in writing ***by certified mail, return receipt requested, or by personal delivery.***~~[;]~~

***(c)***~~[(f)]~~ When ***an***~~[a police]~~ officer has been charged with a violation of ***law enforcement procedures***~~[departmental rules or regulations]~~, no public statements shall be made concerning the alleged violation by any person or persons of the ***employing agency***~~[local unit of government]~~ or the ~~[police]~~ officer so charged, until final disposition of the charges.;

***(d)***~~[(g)]~~ No ~~[police]~~ officer as a condition of continued employment by the ***employing agency***~~[local unit of government]~~ shall be compelled to speak or testify or be questioned by any person or body of a nongovernmental nature.~~[; and]~~

***(7) Unless waived by the charged officer in writing,***~~[(h)When]~~ a hearing ***shall***~~[is to]~~ **be conducted by** *the officer's*~~[any]~~ appointing authority ***to determine whether there is substantial evidence to prove the charges and to determine what, if any, disciplinary action shall be taken if substantial evidence does exist. In conducting a hearing***~~[, legislative body, or other body as designated by the Kentucky Revised Statutes]~~, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any ~~[police ]~~officer charged***, except as otherwise agreed to in writing by the officer and the employing agency*****:**

***(a)***~~[1.]~~ The accused ~~[police ]~~officer shall ***be***~~[have been]~~ given at least ***twelve (12) days written***~~[seventy-two (72) hours]~~ notice of any hearing***. The notice of hearing shall be served on the officer by certified mail, return receipt requested, or by personal delivery***;

***(b)***~~[2.]~~ Copies of any sworn statements or affidavits to be considered by the hearing authority and any exculpatory statements or affidavits shall be furnished to the ~~[police]~~ officer no less than ***twelve days (12)***~~[seventy-two (72) hours]~~ prior to the time of any hearing;

***(c)***~~[3.]~~ ***At***~~[If]~~ any hearing ~~[is ]~~based upon ***the sworn***~~[a]~~ complaint of ***a citizen***~~[an individual]~~, the ***citizen***~~[individual]~~ shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested ***or by personal delivery***;

***(d)***~~[4.]~~ If the return receipt has been returned unsigned, or the individual does not appear, except ~~[where ]~~due to circumstances beyond his ***or her*** control he ***or she*** cannot appear~~[,]~~ at the time and place of the hearing, any charge ***resulting from a complaint*** made by that ***citizen***~~[individual]~~ shall not be considered by the hearing authority and shall be dismissed with prejudice;

***(e)***~~[5.]~~ The accused ~~[police ]~~officer shall have the right and opportunity to obtain and have counsel present, and to be represented by ~~[the]~~ counsel;

***(f)***~~[6.]~~ The appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes shall subpoena and require the attendance of witnesses and the production by them of books, papers, records, and other documentary evidence at the request of the accused ~~[police ]~~officer or the charging party. If any person fails or refuses to appear under the subpoena, or to testify, or to attend, or produce the books, papers, records, or other documentary evidence lawfully required, the appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes may report to the Circuit Court or any judge thereof the failure or refusal, and apply for a rule. The Circuit Court, or any judge thereof, may on the application compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court;

***(g)***~~[7.]~~ The accused ~~[police]~~ officer shall be allowed to ***present***~~[have presented,]~~ witnesses and any documentary ***or other relevant*** evidence the ~~[police ]~~officer wishes to provide to the hearing

authority, and may cross-examine all witnesses called by the charging party;

***(h)***~~[8.]~~ ***If any officer who has been*** ~~[Any police officer]~~ suspended with or without pay ~~[who]~~ is not given a hearing as provided by this section within ***seventy-five (75)*** ~~[sixty (60)]~~ days of any charge being filed ***pursuant to this section***, the charge ~~[then ]~~shall be dismissed with prejudice and ***shall*** not be considered by any hearing authority and the officer shall be reinstated with full back pay and benefits;~~[ and]~~

***(i) Any officer who has been suspended without pay who is found not guilty of the charges by the hearing authority shall be reinstated with the full back pay and benefits for the regular hours he or she would have worked;***

***(j)***~~[9.]~~ The failure to provide any of the rights or to follow the provisions of this section may be raised by the officer with the hearing authority. The hearing authority shall not exclude proffered evidence based on failure to follow the requirements of this section but shall consider whether, because of the failure, the proffered evidence lacks weight or credibility and whether the officer has been materially prejudiced***; and***~~[.]~~

***(k) To the extent the provisions of KRS 61.805 to 61.850 are applicable, the hearing authority may conduct the hearing required by this subsection in a closed session, unless the officer requests of the hearing authority in writing at least three (3) days prior to the hearing that the hearing be open to the public.***

***(8) (a)***~~[(2)]~~ Any ~~[police ]~~officer who ***is***~~[shall be]~~ found guilty by any hearing authority of any charge, may bring an action in the Circuit Court in the county in which the ***employing agency is***~~[local unit of government may be]~~ located ***within thirty (30) days of the date written findings are issued*** to ***appeal***~~[contest]~~ the action of ***the***~~[that]~~ hearing authority***. The appeal shall be initiated by the filing of a complaint in the same manner as any civil action under the Rules of Civil Procedure and shall include a copy of the hearing authority's final order. The Circuit Court review of the case shall be based solely upon the administrative record created before the hearing authority and any new evidence offered by the officer regarding alleged arbitrariness on the part of the hearing authority***~~[, and the action shall be tried as an original action by the court]~~.

***(b)***~~[(3)]~~ The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to appeal to the Court of Appeals shall be the same as in any civil action.

***(9) The provisions of KRS 90.310 to 90.410, 95.450, and 95.765 shall not apply in any proposed disciplinary action arising from a citizen complaint made under subsection (3) of this section or arising from any allegation of conduct that would constitute a violation of law enforcement procedures under subsection (4) of this section. This section shall not be interpreted or construed to alter or impair any of the substantive rights provided to a city police officer under KRS 90.310 to 90.410, 95.450, and 95.765 for any proposed disciplinary action or other matters not arising under subsections (3) and (4) of this section, including proposed actions involving alleged violations of general employment policies. To the extent that the provisions of this section are inapplicable to any proposed disciplinary action against a city police officer, the provisions of KRS 90.310 to 90.410, 95.450, and 95.765 shall remain in full force and effect.***

*(10)* As the provisions of this section relate to a minimum system of professional conduct, nothing ***in this section***~~[herein]~~ shall be ***interpreted or*** **construed** ***to:***

***(a) Limit or to in any way affect any rights previously afforded to officers of the Commonwealth by statute, collective bargaining or working agreement, or legally adopted ordinance;***

***(b) Preclude an employing agency from investigating and charging an officer both criminally and administratively;***

***(c) Prevent the suspension with or without pay or reassignment of an officer during an investigation and pending final disposition charges;***

***(d) Permit an employing agency to categorize and treat any complaint that originates from a citizen as an internal matter in order to avoid application of all of the provisions of this section to the final disposition of a citizen's complaint;***

***(e) Apply any disciplinary action required by this section to actions taken by an employing agency that is not related to misconduct by a law enforcement officer, such as personnel decisions made by the employing agency due to a lack of resources or personnel decisions related to a chief's management of a department; or***

***(f) Prevent an employing agency from electing to apply the provisions of this section, or parts thereof, in circumstances that would not be covered under this section***[~~as limiting or in any way affecting any rights previously afforded to police officers of the Commonwealth by statute, ordinance, or working agreement.~~

~~(4) The provisions of this section shall apply only to police officers of local units of government who receive funds pursuant to KRS 15.410 through 15.992~~].

***(11) This section shall not apply to officers employed by a consolidated local government that receives funds under KRS 15.410 to 15.510, who shall instead be governed by the provisions of Section 2 of this Act.***

***SECTION 2. A NEW SECTION OF KRS 67C.301 to 67C.327 IS CREATED TO READ AS FOLLOWS:***

***KRS 67C.326 Review of citizen complaints against police officers.***

***(1) In order to establish a minimum system of professional conduct of the police officers of consolidated local governments of this Commonwealth, the following standards of conduct are stated as the intention of the General Assembly to deal fairly and set administrative due process rights for police officers of the consolidated local government and at the same time providing a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by police officers covered by this section:***

***(a) Any complaint taken from any individual alleging misconduct on the part of any police officer, as defined herein, shall be taken as follows:***

***1. If the complaint alleges criminal activity on behalf of a police officer, the allegations may be investigated without a signed, sworn complaint of the individual;***

***2. If the complaint alleges abuse of official authority or a violation of rules and regulations of the department, an affidavit, signed and sworn to by the complainant, shall be obtained;***

***3. If a complaint is required to be obtained and the individual, upon request, refuses to make allegations under oath in the form of an affidavit, signed and sworn to, the department may investigate the allegations, but shall bring charges against the police officer only if the department can independently substantiate the allegations absent the sworn statement of the complainant;***

***4. Nothing in this section shall preclude a department from investigating and charging an officer both criminally and administratively.***

***(b) No threats, promises, or coercions shall be used at any time against any police officer while he or she is a suspect in a criminal or departmental matter. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during the period shall not be deemed coercion. Prior to or within twenty-four (24) hours after suspending the officer pending investigation or disposition of a complaint, the officer shall be advised in writing of the reasons for the suspension;***

***(c) No police officer shall be subjected to interrogation in a departmental matter involving alleged misconduct on his or her part, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing. The interrogation shall be conducted while the officer is on duty. The police officer may be required to submit a written report of the alleged incident if the request is made by the department no later than the end of the subject officer's next tour of duty after the tour of duty during which the department initially was made aware of the charges;***

***(d) If a police officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation, he shall be afforded the same constitutional due process rights that are accorded to any civilian, including, but not limited to, the right to remain silent and the right to counsel, and shall be notified of those rights before any questioning commences. Nothing in this section shall prevent the suspension with or without pay or reassignment of the police officer pending disposition of the charges;***

***(e) Any charge involving violation of any consolidated local government rule or regulation shall be made in writing with sufficient specificity so as to fully inform the police officer of the nature and circumstances of the alleged violation in order that he may be able to properly defend himself. The charge shall be served on the police officer in writing;***

***(f) When a police officer has been charged with a violation of departmental rules or regulations, no public statements shall be made concerning the alleged violation by any person or persons of the consolidated local government or the police officer so charged, until final disposition of the charges;***

***(g) No police officer as a condition of continued employment by the consolidated local government shall be compelled to speak or testify or be questioned by any person or body of a nongovernmental nature; and***

***(h) When a hearing is to be conducted by any appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any police officer charged:***

***1. The accused police officer shall have been given at least seventy-two (72) hours notice of any hearing;***

***2. Copies of any sworn statements or affidavits to be considered by the hearing authority and any exculpatory statements or affidavits shall be furnished to the police officer no less than seventy-two (72) hours prior to the time of any hearing;***

***3. If any hearing is based upon a complaint of an individual, the individual shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested;***

***4. If the return receipt has been returned unsigned, or the individual does not appear, except where due to circumstances beyond his control he cannot appear, at the time and place of the hearing, any charge made by that individual shall not be considered by the hearing authority and shall be dismissed with prejudice;***

***5. The accused police officer shall have the right and opportunity to obtain and have counsel present, and to be represented by the counsel;***

***6. The appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes shall subpoena and require the attendance of witnesses and the production by them of books, papers, records, and other documentary evidence at the request of the accused police officer or the charging party. If any person fails or refuses to appear under the subpoena, or to testify, or to attend, or produce the books, papers, records, or other documentary evidence lawfully required, the appointing authority, legislative body,***

***or other body as designated by the Kentucky Revised Statutes may report to the Circuit Court or any judge thereof the failure or refusal, and apply for a rule. The Circuit Court, or any judge thereof, may on the application compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court;***

***7. The accused police officer shall be allowed to have presented, witnesses and any documentary evidence the police officer wishes to provide to the hearing authority, and may cross-examine all witnesses called by the charging party;***

***8. Any police officer suspended with or without pay who is not given a hearing as provided by this section within sixty (60) days of any charge being filed, the charge then shall be dismissed with prejudice and not be considered by any hearing authority and the officer shall be reinstated with full back pay and benefits; and***

***9. The failure to provide any of the rights or to follow the provisions of this section may be raised by the officer with the hearing authority. The hearing authority shall not exclude proffered evidence based on failure to follow the requirements of this section but shall consider whether, because of the failure, the proffered evidence lacks weight or credibility and whether the officer has been materially prejudiced.***

***(2) Any police officer who shall be found guilty by any hearing authority of any charge, may bring an action in the Circuit Court in the county in which the consolidated local government is located to contest the action of that hearing authority, and the action shall be tried as an original action by the court.***

***(3) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to appeal to the Court of Appeals shall be the same as in any civil action. As the provisions of this section relate to a minimum system of professional conduct, nothing in this section shall be construed as limiting or in any way affecting any rights previously afforded to police officers of the consolidated local government by statute, ordinance, or working agreement.***

## HOUSE BILL 312 STRAY EQUINES AND CATTLE

**Section 1. KRS 259.120 is amended to read as follows:**

Stray equines and stray cattle shall be taken up and posted in the following manner:

(1)***(a) Documentation of*** stray equines shall be taken before a ***county judge/executive***~~[justice of the peace]~~ of the district, who shall administer to the taker-up an oath, in substance, that the equine was taken up by him as a stray and that he has not defaced or altered the marks***,*** ~~[or ]~~brands***, or other identifiers, including but not limited to microchips or freeze brands,*** of the equine.

***(b) Documentation of*** stray cattle shall be taken before a ***county judge/executive***~~[justice of the peace]~~ of the district, who shall administer to the taker-up an oath, in substance that the cattle were taken by him as strays on his premises within the preceding ten (10) days and that he has not defaced or altered the marks or brands of the cattle.

***(c) Duties of the county judge/executive pertaining to stray equines shall be to:***

***1. Contract with a licensed veterinarian, who shall document the stray equine's breed, color, sex, marks, brands, scars, and other distinguishing features, perform a microchip scan, and identify the existence of lip tattoos, freeze brands, or microchips;***

***2. Record the veterinarian's findings, the name and residence of the taker-up, and the location of the stray equine in a book to be kept by him for that purpose;***

***3. Maintain documentation in electronic and paper format; and***

***4. Send a copy of the documentation of the stray equine to the Office of the State Veterinarian, who shall post notification on the Office of the State Veterinarian's Web site.***

***The Office of the State Veterinarian shall post one (1) photograph of the stray equine's front view, including its head and feet, and one (1) photograph of the stray equine's side view from muzzle to tail.***~~[ The justice shall then value the stray equine or cattle himself and take a correct description of the flesh-marks, age and brands of the same, all of which, together with the name and residence of the taker-up, he shall record in a book to be kept by him for that purpose. He shall ]~~

***(2) The county judge/executive shall*** give to the taker-up a copy of the ***documentation for the*** record and ***immediately*** deliver to the county clerk a certified copy of the same record~~[ within thirty (30) days]~~.

***(3)***~~[(2)]~~ The clerk shall immediately record the stray certificate of the ***county judge/executive as provided by the taker-up***~~[justice]~~ in a book to be kept by him for that purpose.~~[ His fee for this service shall be seventy-five cents ($0.75) to be paid by the taker-up.]~~

***(4)***~~[(3)]~~ The taker-up shall ***immediately post***~~[cause to be posted]~~ a copy of the ***county judge/executive's***~~[justice's]~~ certificate in the sheriff's office with jurisdiction over the area where the stray cattle or stray equine was taken up~~[ within one (1) month]~~ after he has posted the stray. ***Hold time for stray equines shall begin after all documentation has been properly filed and posted by the county judge/executive and taker-up.***

***(5)***~~[(4)]~~ ***(a) If ownership is found from identifiers of the stray equine such as lip tattoos, freeze brands, or microchips, efforts shall be made by the county/judge executive or his designee to ascertain the owner by investigatory due diligence in locating the owner and providing notice before holding time expires. The owner/claimants of the stray equine shall reimburse the county judge/executive for the cost of the veterinarian's assessment per the contracted agreement.***

***(b)*** The taker-up shall be paid by the owner of the stray, if and when he claims the stray or its value, ~~[the fee paid the clerk ]~~and the actual ***itemized*** costs incurred by the taker-up for keeping the stray equine or cattle. ***In the event that a dispute arises relating to ownership, adverse claimants, third-party claims or liens, value of the equine, or actual itemized expenses incurred, the parties may file an action in a court of competent jurisdiction of the county in which the stray equine was taken up. The filing of an action under this paragraph shall toll holding time as to vesting of ownership interests.***

***(c)*** The taker-up may have the stray equine ***sterilized only after the fifteen (15) day holding period has expired and ownership vested pursuant to KRS 259.130, and any pending court cases pertaining to the stray equine have been resolved***~~[gelded, in which case the owner shall also pay the taker-up for the actual cost incurred for the gelding]~~.

**Section 2. KRS 259.130 is amended to read as follows:**

The absolute ownership of a stray equine shall vest in the taker-up at the expiration of ***fifteen (15)***~~[ninety (90)]~~ days after the ***county judge/executive***~~[justice]~~ has received the evidence of the ***required documentation,***~~[valuation and]~~ administered the oath to the taker-up***, and the county judge/executive and taker-up have filed and posted the required documentation pursuant to KRS 259.120***. The absolute ownership of stray cattle shall vest in the taker-up after the expiration of twelve (12) months from the day on which the cattle have been posted.

**Section 3. KRS 259.140 is amended to read as follows:**

(1) If~~[ stray equines or]~~ cattle taken up under KRS 259.120 are sold for a profit before absolute ownership of the~~[ stray equines or]~~ stray cattle has vested in the taker-up as provided by KRS 259.130, then the taker-up shall pay to the owner upon demand and proof of ownership the amount received for the~~[ stray equine or]~~ stray cattle less the amount owed by the owner to the taker-up

under KRS 259.120. The owner shall not be entitled to any payment from the taker-up under this section if demand for payment is made more than ***fifteen (15)***~~[ninety (90)]~~ days after the posting of the stray equine ***and vesting of ownership pursuant to KRS 259.130*** or more than twelve (12) months after the posting of the stray cattle under KRS 259.120.

**(2)** ***County judges/executive or participating state agency***~~[justices of the peace]~~, county clerks, and all other local government employees acting in good faith in the discharge of the duties imposed by KRS 259.105, 259.110, 259.120, 259.130, and this section shall be immune from criminal and civil liability for any act related to the taking up and posting of stray equines or stray cattle.

## HOUSE BILL 370 MOTORCYCLES

**Section 10. KRS 189.338 is amended to read as follows:**

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights or colored lighted arrows, successively one at a time or in combination, only the colors green, red, and yellow shall be used, except for special pedestrian signals carrying a word legend or symbolic message, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication.

(a) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(c) Unless otherwise directed by a pedestrian-control signal, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(d) Vehicular traffic that entered an intersection on a circular green or yellow indication is allowed to complete a left turn during the red indication.

(2) Steady yellow indication.

(a) Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

(b) Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian-control signal, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown, and no pedestrian shall then start to cross the roadway.

(3) Steady red indication.

(a) Vehicular traffic facing a circular red signal alone shall stop at a clearly marked stop line but, if none, then before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown, except as follows:

1. The driver of a vehicle which is stopped as required by ***this paragraph***~~[subsection (3)(a)]~~ with the intention of making a right turn, may make such right turn, after stopping, unless an official sign has been erected prohibiting such movement, but shall yield the right-of-way to

pedestrians and other traffic lawfully proceeding through the intersection**;**~~.~~

2. The driver of a vehicle which is stopped as required by ***this paragraph***~~subsection (3)(a)~~ whose vehicle is in the left lane of a one-way highway with the intention of making a left turn onto the left lane of another one-way highway with the flow of traffic, may make such left turn, after stopping, unless an official sign has been erected prohibiting such movement, but shall yield the right-of-way to pedestrians and other traffic lawfully proceeding through the intersection***; and***~~.~~

3. In instances where there are two (2) right or left turn lanes, an allowable turn under this paragraph may be made from either lane unless a regulatory sign specifically prohibits it.

(b) Cities and counties may, by ordinance, and the department of highways may, by regulation, prohibit any such right or left turn against a steady red signal at any intersection, which prohibition shall be effective when an official sign prohibiting such movement is erected at the intersection.

(c) Unless otherwise directed by a pedestrian-control signal, pedestrians facing a steady red signal alone shall not enter the roadway.

(4) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

(5) Whenever an illuminated flashing red or yellow light is used in a traffic signal or with a traffic sign it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal) - When a red lens is illuminated with rapid intermittent flashes, operators of vehicles shall stop at a clearly marked stop line but, if none, before entering the crosswalk on the near side of the intersection or, if none, then at the point nearest the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway before entering it, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign*; and*~~.~~

(b) Flashing yellow (caution signal) - When a yellow lens is illuminated with rapid intermittent flashes, operators of vehicles may proceed through the intersection or past such signal only with caution.

***(6) Any person operating a motorcycle who violates subsection (3) of this section by entering or crossing an intersection controlled by a traffic control signal against a steady red light shall have an affirmative defense to that charge if the person establishes all of the following conditions:***

***(a) The motorcycle was brought to a complete stop;***

***(b) The traffic control signal continued to show a steady red light for one hundred twenty (120) seconds or the traffic control signal at the intersection has completed two (2) lighting cycles;***

***(c) The traffic control signal was apparently malfunctioning or, if programmed or engineered to change to a green light only after detecting the approach of a motor vehicle, the signal apparently failed to detect the arrival of a motorcycle; and***

***(d) No motor vehicle or person was approaching on the street or highway to be crossed or entered, or any approaching person or vehicle was so far away from the intersection that it did not constitute an immediate hazard.***

***(7) The affirmative defense outlined in subsection (6) of this section shall only apply to a violation for entering or crossing an intersection controlled by a traffic signal against a steady red light and shall not provide a defense to any other civil or criminal action.***
***(8) In the event a motorcyclist exercises the affirmative defense provisions set forth in subsection (6) of this section, the Transportation Cabinet or its employees are specifically immune from any and all civil liability arising from any such claim, lawsuit, or dispute. Any claim, lawsuit, or dispute against the Transportation Cabinet as a result of the affirmative defense set forth in subsection (6) of this section, shall be brought using the provisions outlined in KRS Chapter 44.***

## HOUSE BILL 380 SCHOOL EMPLOYEES

**Section 1. KRS 161.190 is amended to read as follows:**
Whenever a teacher***, classified employee,*** or school administrator is functioning in his capacity as an employee of a board of education of a public school system, it shall be unlawful for any person to direct speech or conduct toward the teacher***, classified employee,*** or school administrator when such person knows or should know that the speech or conduct will disrupt or interfere with normal school activities or will nullify or undermine the good order and discipline of the school.

## HOUSE BILL 428 CORRECTIONS

**Section 1. KRS 196.037 is amended to read as follows:**

* * * * *

***(4) Internal affairs officers and supervisors of the department, while investigating any person in connection with an offense involving personnel of the department, employee of any contractor providing services to the department, confined prisoner, paroled prisoner, escaped prisoner, probationer, or other person otherwise placed under the supervision of the department, shall have all the authority and powers of peace officers.***

*** * * * ***

**Section 2. KRS 237.110 is amended to read as follows:**
(1) The Department of Kentucky State Police is authorized to issue and renew licenses to carry concealed firearms or other deadly weapons, or a combination thereof, to persons qualified as provided in this section.
(2) An original or renewal license issued pursuant to this section shall:

* * * * *

(c) Corrections officers who are currently employed by ~~[a county containing ]~~a consolidated local government***,*** ~~[ or]~~ an urban-county government***, or the Department of Corrections*** who have successfully completed a basic firearms training course required for their employment, and corrections officers who were formerly employed by ~~[a county containing ]~~a consolidated local government***,*** ~~[ or]~~ an urban-county government***, or the Department of Corrections*** who are retired, and who successfully completed a basic firearms training course required for their employment, and are members of a state-administered retirement system or other retirement system operated by or

for a city, county, or urban-county government in Kentucky shall be deemed to have met the training requirement.

* * * * *

## *REMINDER*

***Certain provisions of Senate Bill 200, 2014 Kentucky General Assembly, relating to juveniles, take effect on July 1, 2015. Please refer to last year's update or check the DOCJT Legal Section webpage for further information.***